HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1556(b)	31:703(b)(1st sentence words after 4th comma, last sentence).	

In the section, the word ''President'' is substituted for ''Director of the Office of Management and Budget'' because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President.

AMENDMENTS

1990—Pub. L. 101–510 substituted ''General: reports'' for ''General reports'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

''(1) the head of the agency concerned;

''(2) the Secretary of the Treasury; and

''(3) the President.

''(b) A report under this section shall include an appraisal of unpaid obligations under appropriation accounts established under section 1552 of this title. By the 30th day after receiving a report, the head of the agency concerned shall carry out actions required by section 1554 of this title that the report shows is necessary.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 applicable to any appropriation account the obligated balance of which, on Nov. 5, 1990, has not been transferred under section 1552(a)(1) of this title, as in effect Nov. 4, 1990, with transitional provisions, see section 1405(b) of Pub. L. 101–510, set out as a note under section 1551 of this title.

§ 1557. Authority for exemptions in appropriation laws

A provision of an appropriation law may exempt an appropriation from the provisions of this subchapter and fix the period for which the appropriation remains available for expenditure.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 937; Pub. L. 101–510, div. A, title XIV, § 1405(a)(1), Nov. 5, 1990, 104 Stat. 1679.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
1557	31:708.	July 25, 1956, ch. 727, § 9, 70 Stat. 650.

AMENDMENTS

1990—Pub. L. 101–510 substituted ''Authority for exemptions in appropriation laws'' for ''Authorization to exempt'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''A provision of an appropriation law may exempt an appropriation from this subchapter and fix the period for which the appropriation remains available for expenditure.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–510 applicable to any appropriation account the obligated balance of which, on Nov. 5, 1990, has not been transferred under section 1552(a)(1) of this title, as in effect Nov. 4, 1990, with transitional provisions, see section 1405(b) of Pub. L. 101–510, set out as a note under section 1551 of this title.

§ 1558. Availability of funds following resolution of a formal protest or other challenge

(a) Notwithstanding section 1552 of this title or any other provision of law, funds available to an agency for obligation for a contract at the time a protest or other action referred to in subsection (b) is filed in connection with a solicitation for, proposed award of, or award of such contract shall remain available for obligation for 100 days after the date on which the final ruling is made on the protest or other action. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such an appeal or request, whichever is later.

(b) Subsection (a) applies with respect to—

(1) any protest filed under subchapter V of chapter 35 of this title; or

(2) an action commenced under administrative procedures or for a judicial remedy if—

(A) the action involves a challenge to—

(i) a solicitation for a contract;

(ii) a proposed award of a contract;

(iii) an award of a contract; or

(iv) the eligibility of an offeror or potential offeror for a contract or of the contractor awarded the contract; and

(B) commencement of the action delays or prevents an executive agency from making an award of a contract or proceeding with a procurement.

(Added Pub. L. 101–189, div. A, title VIII, § 813(a), Nov. 29, 1989, 103 Stat. 1494; amended Pub. L. 104–106, div. E, title LV, § 5502(a), (b), Feb. 10, 1996, 110 Stat. 698, 699.)

AMENDMENTS

1996—Pub. L. 104–106, § 5502(b), substituted ''of a formal protest or other challenge'' for ''of a protest'' in section catchline.

Subsec. (a). Pub. L. 104–106, § 5502(a)(1), inserted ''or other action referred to in subsection (b)'' after ''time a protest'', substituted ''100 days'' for ''90 working days'', and inserted ''or other action'' after ''on the protest''.

Subsec. (b). Pub. L. 104–106, § 5502(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''Subsection (a) applies with respect to any protest filed under subchapter V of chapter 35 of this title or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, div. E, title LVII, Feb. 10, 1996, 110 Stat. 702.

SUBTITLE III—FINANCIAL MANAGEMENT

Chap.		Sec.
31.	**Public Debt**	**3101**
33.	**Depositing, Keeping, and Paying Money**	**3301**
35.	**Accounting and Collection**	**3501**
37.	**Claims**	**3701**
38.	**Administrative Remedies for False Claims and Statements**	**3801**
39.	**Prompt Payment**	**3901**

AMENDMENTS

1986—Pub. L. 99–509, title VI, § 6103(b), Oct. 21, 1986, 100 Stat. 1948, added item for chapter 38.

1983—Pub. L. 97–452, §1(18)(B), Jan. 12, 1983, 96 Stat. 2477, added item for chapter 39.

CHAPTER 31—PUBLIC DEBT

SUBCHAPTER I—BORROWING AUTHORITY

Sec.
3101. Public debt limit.
3102. Bonds.
3103. Notes.
3104. Certificates of indebtedness and Treasury bills.
3105. Savings bonds and savings certificates.
3106. Retirement and savings bonds.
3107. Increasing interest rates and investment yields on retirement bonds.
3108. Prohibition against circulation privilege.
3109. Tax and loss bonds.
3110. Sale of obligations of governments of foreign countries.
3111. New issue used to buy, redeem, or refund outstanding obligations.
3112. Sinking fund for retiring and cancelling bonds and notes.
3113. Accepting gifts.

SUBCHAPTER II—ADMINISTRATIVE

3121. Procedure.
3122. Banks and trust companies as depositaries.
3123. Payment of obligations and interest on the public debt.
3124. Exemption from taxation.
3125. Relief for lost, stolen, destroyed, mutilated, or defaced obligations.
3126. Losses and relief from liability related to redeeming savings bonds and notes.
3127. Credit to officers, employees, and agents for stolen Treasury notes.
3128. Proof of death to support payment.
3129. Appropriation to pay expenses.
3130. Annual public debt report.

AMENDMENTS

1993—Pub. L. 103–202, title II, §201(b), Dec. 17, 1993, 107 Stat. 2356, added item 3130.

SUBCHAPTER I—BORROWING AUTHORITY

§3101. Public debt limit

(a) In this section, the current redemption value of an obligation issued on a discount basis and redeemable before maturity at the option of its holder is deemed to be the face amount of the obligation.

(b) The face amount of obligations issued under this chapter and the face amount of obligations whose principal and interest are guaranteed by the United States Government (except guaranteed obligations held by the Secretary of the Treasury) may not be more than $11,315,000,000,000, outstanding at one time, subject to changes periodically made in that amount as provided by law through the congressional budget process described in Rule XLIX[1] of the Rules of the House of Representatives or otherwise.

(c) For purposes of this section, the face amount, for any month, of any obligation issued on a discount basis that is not redeemable before maturity at the option of the holder of the obligation is an amount equal to the sum of—

(1) the original issue price of the obligation, plus

(2) the portion of the discount on the obligation attributable to periods before the beginning of such month (as determined under the principles of section 1272(a) of the Internal Revenue Code of 1986 without regard to any exceptions contained in paragraph (2) of such section).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 938; Pub. L. 98–34, §1(a), May 26, 1983, 97 Stat. 196; Pub. L. 98–161, Nov. 21, 1983, 97 Stat. 1012; Pub. L. 98–342, §1(a), July 6, 1984, 98 Stat. 313; Pub. L. 98–475, Oct. 13, 1984, 98 Stat. 2206; Pub. L. 99–177, §1, Dec. 12, 1985, 99 Stat. 1037; Pub. L. 99–384, Aug. 21, 1986, 100 Stat. 818; Pub. L. 100–119, §1, Sept. 29, 1987, 101 Stat. 754; Pub. L. 101–72, §2, Aug. 7, 1989, 103 Stat. 182; Pub. L. 101–140, §1, Nov. 8, 1989, 103 Stat. 830; Pub. L. 101–508, title XI, §11901[(a)], Nov. 5, 1990, 104 Stat. 1388–560; Pub. L. 103–66, title XIII, §13411(a), Aug. 10, 1993, 107 Stat. 565; Pub. L. 104–121, title III, §301, Mar. 29, 1996, 110 Stat. 875; Pub. L. 105–33, title V, §5701, Aug. 5, 1997, 111 Stat. 648; Pub. L. 107–199, §1, June 28, 2002, 116 Stat. 734; Pub. L. 108–24, May 27, 2003, 117 Stat. 710; Pub. L. 108–415, §1, Nov. 19, 2004, 118 Stat. 2337; Pub. L. 109–182, Mar. 20, 2006, 120 Stat. 289; Pub. L. 110–91, Sept. 29, 2007, 121 Stat. 988; Pub. L. 110–289, div. C, title III, §3083, July 30, 2008, 122 Stat. 2908; Pub. L. 110–343, div. A, title I, §122, Oct. 3, 2008, 122 Stat. 3790.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3101(a)	31:757b(last sentence).	Sept. 24, 1917, ch. 56, 40 Stat. 288, §21; added Feb. 4, 1935, ch. 5, §5, 49 Stat. 21; May 26, 1938, ch. 285, §2, 52 Stat. 447; July 20, 1939, ch. 336, 53 Stat. 1071; June 25, 1940, ch. 419, §302, 54 Stat. 526; Feb. 19, 1941, ch. 7, §2(a), 55 Stat. 7; Mar. 28, 1942, ch. 205, §2, 56 Stat. 189; Apr. 11, 1943, ch. 52, §2, 57 Stat. 63; June 9, 1944, ch. 240, §2, 58 Stat. 272; Apr. 3, 1945, ch. 51, §2, 59 Stat. 47; June 26, 1946, ch. 501, §1, 60 Stat. 316; restated Sept. 2, 1958, Pub. L. 85–912, 72 Stat. 1758; June 30, 1959, Pub. L. 86–74, §1, 73 Stat. 156; June 30, 1967, Pub. L. 90–39, §1, 81 Stat. 99; Apr. 7, 1969, Pub. L. 91–8, §1, 83 Stat. 7; June 30, 1970, Pub. L. 91–301, §1, 84 Stat. 368; Mar. 17, 1971, Pub. L. 92–5, §1, 85 Stat. 5; Sept. 29, 1979, Pub. L. 96–78, §202, 93 Stat. 591.
3101(b)	31:757b(1st sentence).	
3101(c)	31:757b–1.	June 30, 1967, Pub. L. 90–39, §2, 81 Stat. 99.

In subsection (a), the words ''is deemed to be'' are substituted for ''shall be considered . . . to be'' because a legal fiction is intended.

REFERENCES IN TEXT

The Rules of the House of Representatives for the One Hundred Sixth Congress were adopted and amended generally by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Provisions formerly appearing in Rule XLIX, referred to in subsec. (b), were contained in Rule XXIII, which was subsequently repealed by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

Section 1272(a) of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 1272(a) of Title 26, Internal Revenue Code.

[1] See References in Text note below.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–343 substituted ''$11,315,000,000,000'' for ''$10,615,000,000,000''.

Pub. L. 110–289 substituted ''$10,615,000,000,000'' for ''$9,815,000,000,000''.

2007—Subsec. (b). Pub. L. 110–91 substituted ''$9,815,000,000,000'' for ''$8,965,000,000,000''.

2006—Subsec. (b). Pub. L. 109–182 substituted ''$8,965,000,000,000'' for ''$8,184,000,000,000''.

2004—Subsec. (b). Pub. L. 108–415 substituted ''$8,184,000,000,000'' for ''$7,384,000,000,000''.

2003—Subsec. (b). Pub. L. 108–24 substituted ''$7,384,000,000,000'' for ''$6,400,000,000,000''.

2002—Subsec. (b). Pub. L. 107–199 substituted ''$6,400,000,000,000'' for ''$5,950,000,000,000''.

1997—Subsec. (b). Pub. L. 105–33 substituted ''$5,950,000,000,000'' for ''$5,500,000,000,000''.

1996—Subsec. (b). Pub. L. 104–121 substituted ''$5,500,000,000,000'' for ''$4,900,000,000,000''.

1993—Subsec. (b). Pub. L. 103–66 substituted ''$4,900,000,000,000'' for ''$4,145,000,000,000''.

1990—Subsec. (b). Pub. L. 101–508 substituted ''$4,145,000,000,000'' for ''$3,122,700,000,000''.

1989—Subsec. (b). Pub. L. 101–140 substituted ''$3,122,700,000,000'' for ''$2,800,000,000,000''.

Subsec. (c). Pub. L. 101–72 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The face amount of beneficial interests and participations (except those held by their issuer) issued under section 302(c) of the National Housing Act (12 U.S.C. 1717(c)) from July 1, 1967, through June 30, 1968, and outstanding at any time shall be included in the amount taken into account in deciding whether the face amount requirement of subsection (b) of this section has been exceeded. This subsection does not require a change in the budgetary accounting for beneficial interests and participations.''

1987—Subsec. (b). Pub. L. 100–119 substituted ''$2,800,000,000,000'' for ''$2,111,000,000,000''.

1986—Subsec. (b). Pub. L. 99–384, which directed that subsec. (b) be amended by ''striking out the dollar limitation contained in such subsection and inserting in lieu thereof '$2,111,000,000,000,' '', was executed by substituting ''$2,111,000,000,000,'' for ''$1,847,800,000,000, or $2,078,700,000,000 on and after October 1, 1985,'' as the probable intent of Congress.

1985—Subsec. (b). Pub. L. 99–177 substituted ''$1,847,800,000,000, or $2,078,700,000,000 on and after October 1, 1985'' for ''$1,575,700,000,000, or $1,823,800,000,000 on and after October 1, 1984''.

1984—Subsec. (b). Pub. L. 98–475 substituted ''$1,575,700,000,000, or $1,823,800,000,000 on and after October 1, 1984,'' for ''$1,573,000,000,000''.

Pub. L. 98–342 substituted ''$1,573,000,000,000'' for ''$1,389,000,000,000, or $1,490,000,000,000 on and after October 1, 1983,''.

1983—Subsec. (b). Pub. L. 98–161 inserted '', or $1,490,000,000,000 on and after October 1, 1983,'' after ''$1,389,000,000,000''.

Pub. L. 98–34 substituted ''$1,389,000,000,000'' for ''$400,000,000,000''.

TREATMENT OF CERTAIN OBLIGATIONS OF UNITED STATES

Pub. L. 104–115, §1(a)–(c), Mar. 12, 1996, 110 Stat. 825, authorized Secretary of the Treasury to issue to each Federal fund obligations of United States under this chapter before Mar. 30, 1996, in amount not to exceed certain designated limits, exempted such obligations from public debt limit and provided for termination of such exemption, and defined ''Federal fund'' for purpose of section.

TIMELY PAYMENT OF MARCH 1996 SOCIAL SECURITY BENEFITS GUARANTEED

Pub. L. 104–103, §1, Feb. 8, 1996, 110 Stat. 55, as amended by Pub. L. 104–115, §1(d), Mar. 12, 1996, 110 Stat. 825, authorized Secretary of the Treasury to issue, before Mar. 1, 1996, obligations of United States under this chapter in amount equal to monthly insurance benefits payable in March 1996 under title II of Social Security Act (42 U.S.C. 401 et seq.), exempted such obligations from public debt limit and provided for termination of such exemption.

REPEAL OF PERMANENT INCREASE IN PUBLIC DEBT LIMIT

Pub. L. 98–302, §1, May 25, 1984, 98 Stat. 217, which permanently increased the public debt limit by $30,000,000,000 effective May 25, 1984, was repealed by Pub. L. 98–342, §1(b), July 6, 1984, 98 Stat. 313, effective on and after July 6, 1984.

TEMPORARY INCREASES IN PUBLIC DEBT LIMIT

The public debt limit set forth in this section was temporarily increased for limited periods by the following acts:

Oct. 28, 1990, Pub. L. 101–467, §106, 104 Stat. 1087—Increase to $3,230,000,000,000 for the period Oct. 28, 1990, to Nov. 5, 1990.

Aug. 9, 1990, Pub. L. 101–350, §1, 104 Stat. 403, as amended Oct. 2, 1990, Pub. L. 101–405, §1, 104 Stat. 878; Oct. 9, 1990, Pub. L. 101–412, §114, 104 Stat. 897; Oct. 19, 1990, Pub. L. 101–444, §114, 104 Stat. 1033; Oct. 25, 1990, Pub. L. 101–461, §114, 104 Stat. 1078—Increase to $3,195,000,000,000 for the period Aug. 9, 1990, to Oct. 27, 1990.

Aug. 7, 1989, Pub. L. 101–72, §1, 103 Stat. 182—Increase of $70,000,000,000 for the period Aug. 7, 1989, to Oct. 31, 1989.

Aug. 10, 1987, Pub. L. 100–84, 101 Stat. 550—Increase to $2,352,000,000,000 for the period Aug. 10, 1987, to Sept. 23, 1987.

May 15, 1987, Pub. L. 100–40, §1(a), 101 Stat. 308, as amended July 30, 1987, Pub. L. 100–80, §1(a), 101 Stat. 542—Increase to $2,320,000,000,000 for the period May 15, 1987, to August 6, 1987. [Section 1(b) of Pub. L. 100–80 provided that: ''The amendment made by subsection (a) [amending section 1(a) of Pub. L. 100–40] shall take effect on the date of the enactment of this Act [July 30, 1987].'']

Nov. 14, 1985, Pub. L. 99–155, §1, 99 Stat. 814—Provided for a temporary increase of an amount determined by the Secretary of the Treasury as necessary, but not to exceed a public debt limit of $1,903,800,000,000 for the period Nov. 14, 1985, to Dec. 6, 1985.

June 28, 1982, Pub. L. 97–204, 96 Stat. 130—Increase of $743,100,000,000 for the period June 28, 1982, to Sept. 30, 1982.

Sept. 30, 1981, Pub. L. 97–49, 95 Stat. 956—Increase of $679,800,000,000 for the period Oct. 1, 1981, to Sept. 30, 1982.

REPEALS OF TEMPORARY INCREASES IN PUBLIC DEBT LIMIT

Pub. L. 103–12, Apr. 6, 1993, 107 Stat. 42, providing for a temporary increase in public debt limit to $4,370,000,000,000 for the period Apr. 6, 1993, to Sept. 30, 1993, was repealed by Pub. L. 103–66, title XIII, §13411(b), Aug. 10, 1993, 107 Stat. 565, effective Aug. 10, 1993.

Pub. L. 99–509, title VIII, §8201, Oct. 21, 1986, 100 Stat. 1968, providing for a temporary increase in public debt limit of $189,000,000,000 for the period Oct. 21, 1986, to May 15, 1987, was repealed by Pub. L. 100–40, §1(b), May 15, 1987, 101 Stat. 308, effective May 15, 1987.

Pub. L. 97–270, Sept. 30, 1982, 96 Stat. 1156, providing for a temporary increase in public debt limit of $890,200,000,000 for the period Oct. 1, 1982, to Sept. 30, 1983, was repealed by Pub. L. 98–34, §1(b), May 26, 1983, 97 Stat. 196, effective May 26, 1983.

The following acts which temporarily increased the public debt limit for limited periods were repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068:

Pub. L. 97–48, Sept. 30, 1981, 95 Stat. 955, provided for a temporary increase of $599,800,000,000 for the period Sept. 30, 1981, to Sept. 30, 1981.

Pub. L. 97–2, Feb. 7, 1981, 95 Stat. 4, provided for a temporary increase of $585,000,000,000 for the period Feb. 7, 1981, to Sept. 30, 1981.

Pub. L. 96–556, §1, Dec. 19, 1980, 94 Stat. 3261, provided for a temporary increase of $535,100,000,000 for the period Oct. 1, 1980, to Sept. 30, 1981.

Pub. L. 96–286, §1, June 28, 1980, 94 Stat. 598, provided for a temporary increase of $525,000,000,000 for the period June 28, 1980, to Feb. 28, 1981.

Pub. L. 96–78, title I, §101(a), Sept. 29, 1979, 93 Stat. 589, as amended Pub. L. 96–256, May 30, 1980, 94 Stat. 421; Pub. L. 96–264, §1, June 6, 1980, 94 Stat. 439, provided for a temporary increase of $479,000,000,000 for the period Sept. 29, 1979, to June 30, 1980.

Pub. L. 96–5, §1, Apr. 2, 1979, 93 Stat. 8, providing for a temporary increase of $430,000,000,000 for the period Apr. 2, 1979, to Sept. 30, 1979, was also repealed by Pub. L. 96–79, title I, §101(b), Sept. 29, 1979, 93 Stat. 589.

Pub. L. 95–333, §1, Aug. 3, 1978, 92 Stat. 419, providing for a temporary increase of $398,000,000,000 in the public debt limit for the period Oct. 3, 1978, to Mar. 31, 1979, was also repealed by Pub. L. 96–5, §2, Apr. 2, 1979, 93 Stat. 8.

Pub. L. 95–120, §1, Oct. 4, 1977, 91 Stat. 1090, as amended, providing for a temporary increase of $352,000,000,000 in the public debt limit for the period Oct. 4, 1977, to July 31, 1978, was also repealed by Pub. L. 95–333, §2, Aug. 3, 1978, 92 Stat. 419.

Pub. L. 94–334, §1, June 30, 1976, 90 Stat. 793, providing for a temporary increase of $300,000,000,000 in the public debt limit for the period Apr. 1, 1977, to Sept. 30, 1977, was also repealed by Pub. L. 95–120, §2, Oct. 4, 1977, 91 Stat. 1090.

Pub. L. 94–232, §1, Mar. 15, 1976, 90 Stat. 217, provided for a temporary increase of $227,000,000,000 for the period Mar. 15, 1976, to June 30, 1976.

Pub. L. 94–132, §1, Nov. 14, 1975, 89 Stat. 693, providing for a temporary increase of $195,000,000,000 in the public debt limit for the period Nov. 14, 1975, to Mar. 15, 1976, was also repealed by Pub. L. 94–232, §2, Mar. 15, 1976, 90 Stat. 217.

Pub. L. 94–47, §1, June 30, 1975, 89 Stat. 246, providing for a temporary increase of $177,000,000,000 in the public debt limit for the period June 30, 1975, to Nov. 15, 1975, was also repealed by Pub. L. 94–132, §2, Nov. 14, 1975, 89 Stat. 693.

Pub. L. 94–3, §1, Feb. 19, 1975, 89 Stat. 5, providing for a temporary increase of $131,000,000,000 in the public debt limit for the period Feb. 19, 1975, to June 30, 1975, was also repealed by Pub. L. 94–47, §2, June 30, 1975, 89 Stat. 246.

Pub. L. 93–325, §1, June 30, 1974, 88 Stat. 285, providing for a temporary increase of $95,000,000,000 in the public debt limit for the period June 30, 1974, to Mar. 31, 1975, was also repealed by Pub. L. 94–3, §2, Feb. 19, 1975, 89 Stat. 5.

Pub. L. 93–173, §1, Dec. 3, 1973, 87 Stat. 691, providing for a temporary increase of $75,700,000,000 in the public debt limit for the period of Dec. 3, 1973, to June 30, 1974, was also repealed by Pub. L. 93–325, §2, June 30, 1974, 88 Stat. 285, eff. June 30, 1974.

Pub. L. 92–599, title I, §101, Oct. 27, 1972, 86 Stat. 1324, as amended Pub. L. 93–53, §1, July 1, 1973, 87 Stat. 134, providing for a temporary increase of $65,000,000,000 in the public debt limit for the period of Nov. 1, 1972, to Nov. 30, 1973, was also repealed by Pub. L. 93–173, §2, Dec. 3, 1973, 87 Stat. 691, eff. Dec. 3, 1973.

Pub. L. 92–250, Mar. 15, 1972, 86 Stat. 63, as amended Pub. L. 92–336, title I, §1, July 1, 1972, 86 Stat. 406, provided for a temporary increase of $20,000,000,000 for the period Mar. 15, 1972, to Oct. 31, 1972.

Pub. L. 92–5, title I, §2(a), Mar. 17, 1971, 85 Stat. 5, as amended July 1, 1972, Pub. L. 92–336, title I, §1, 86 Stat. 406, provided for a temporary increase of $30,000,000,000 for the period of Mar. 17, 1971, to Oct. 31, 1972.

Pub. L. 91–301, §2, June 30, 1970, 84 Stat. 368, providing for a temporary increase of $15,000,000,000 in the public debt limit for the period of June 30, 1970, to June 30, 1971, was also repealed by Pub. L. 92–5, title I, §2(b), Mar. 17, 1971, 85 Stat. 5, eff. Mar. 17, 1971.

Pub. L. 91–8, §2, Apr. 7, 1969, 83 Stat. 7, provided for a temporary increase of $12,000,000,000 for the period Apr. 7, 1969, to June 30, 1970.

Pub. L. 90–3, Mar. 2, 1967, 81 Stat. 4, provided for a temporary increase from $285,000,000,000 to $336,000,000,000 for the period Mar. 2, 1967.

Pub. L. 89–472, June 24, 1966, 80 Stat. 221, provided for a temporary increase from $285,000,000,000 to $330,000,000,000 for the period July 1, 1966, to June 30, 1967.

Pub. L. 89–49, June 24, 1965, 79 Stat. 172, provided for a temporary increase from $285,000,000,000 to $328,000,000,000 for the period July 1, 1965, to June 30, 1966.

Pub. L. 88–327, June 29, 1964, 78 Stat. 255, provided for a temporary increase from $285,000,000,000 to $324,000,000,000 for the period June 29, 1964, to June 30, 1965.

Pub. L. 88–187, Nov. 26, 1963, 77 Stat. 342, provided for a temporary increase from $285,000,000,000 to $309,000,000,000 for the period Dec. 1, 1963, to June 30, 1964 and a further increase of $6,000,000,000 for the period Dec. 1, 1963 through June 29, 1964 because of variations in the timing of revenue receipts.

Pub. L. 88–106, Aug. 27, 1963, 77 Stat. 131, provided for a temporary increase from $285,000,000,000 to $309,000,000,000 for the period Sept. 1, 1963, to Nov. 30, 1963.

Pub. L. 88–30, §1(2), May 29, 1963, 77 Stat. 50, provided for a temporary increase from $285,000,000,000 to $309,000,000,000 for the period July 1, 1963, to Aug. 31, 1963.

Pub. L. 88–30, §1(1), May 29, 1963, 77 Stat. 50, provided for a temporary increase from $285,000,000,000 to $307,000,000,000 for the period May 29, 1963, to June 30, 1963.

Pub. L. 87–512, §1(3), July 1, 1962, 76 Stat. 124, provided for a temporary increase from $285,000,000,000 to $300,000,000,000 for the period June 25, 1963, to June 30, 1963.

Pub. L. 87–512, §1(2), July 1, 1962, 76 Stat. 124, provided for a temporary increase from $285,000,000,000 to $305,000,000,000 for the period Apr. 1, 1963, to June 24, 1963.

Pub. L. 87–512, §1(1), July 1, 1962, 76 Stat. 124, provided for a temporary increase from $285,000,000,000 to $308,000,000,000 for the period July 1, 1962, to Mar. 31, 1963.

Pub. L. 87–414, Mar. 13, 1962, 76 Stat. 23, provided for a temporary increase from $285,000,000,000 to $300,000,000,000 for the period Mar. 13, 1962, to June 30, 1962.

Pub. L. 87–69, June 30, 1961, 75 Stat. 148, provided for a temporary increase from $285,000,000,000 to $298,000,000,000 for the period July 1, 1961, to June 30, 1962.

Pub. L. 86–564, title I, §101, June 30, 1960, 74 Stat. 290, provided for a temporary increase from $285,000,000,000 to $293,000,000,000 for the period July 1, 1960, to June 30, 1961.

Pub. L. 86–74, §2, June 30, 1959, 73 Stat. 156, provided for a temporary increase from $285,000,000,000 to $295,000,000,000 for the period July 1, 1959, to June 30, 1960.

Pub. L. 85–336, Feb. 26, 1958, 72 Stat. 27, provided for a temporary increase from $275,000,000,000 to $280,000,000,000 for the period Feb. 26, 1958, to June 30, 1959.

July 9, 1956, ch. 536, 70 Stat. 519, provided for a temporary increase from $275,000,000,000 to $278,000,000,000 for the period July 1, 1956, to June 30, 1957.

Aug. 28, 1954, ch. 1037, 68 Stat. 895, as amended by act June 30, 1955, ch. 256, 69 Stat. 241, provided for a temporary increase from $275,000,000,000 to $281,000,000,000 for the period Aug. 28, 1954, to June 30, 1956.

RESTORATION OF TRUST FUND INVESTMENTS

Provisions requiring the Secretary of the Treasury to restore certain Federal trust funds and Government accounts to the position they would have been if the debt limitation of 31 U.S.C. 3101(b) had not prevented them from investing funds during specific periods were contained in the following acts:

Pub. L. 101–508, title XI, § 11901(b), Nov. 5, 1990, 104 Stat. 1388–560.

Pub. L. 101–140, title III, § 301, Nov. 8, 1989, 103 Stat. 833.

Pub. L. 99–177, title II, § 272, Dec. 12, 1985, 99 Stat. 1095.

§ 3102. Bonds

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue bonds of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may issue bonds authorized by this section to the public and to Government accounts at any annual interest rate and prescribe conditions under section 3121 of this title.

(b) The Secretary shall offer the bonds authorized under this section first as a popular loan under regulations of the Secretary that allow the people of the United States as nearly as possible an equal opportunity to participate in subscribing to the offered bonds. However, the bonds may be offered in a way other than as a popular loan when the Secretary decides the other way is in the public interest.

(c)(1) When the Secretary decides it is in the public interest in making a bond offering under this section, the Secretary may—

(A) make full allotments on receiving applications for smaller amounts of bonds to subscribers applying before the closing date the Secretary sets for filing applications;

(B) reject or reduce allotments on receiving applications filed after the closing date or for larger amounts;

(C) reject or reduce allotments on receiving applications from incorporated banks and trust companies for their own account and make full allotments or increase allotments to other subscribers; and

(D) prescribe a graduated scale of allotments.

(2) The Secretary shall prescribe regulations applying to all popular loan subscribers similarly situated governing a reduction or increase of an allotment under paragraph (1) of this subsection.

(d) The Secretary may make special arrangements for subscriptions from members of the armed forces. However, bonds issued to those members must be the same as other bonds of the same issue.

(e) The Secretary may dispose of any part of a bond offering not taken and may prescribe the price and way of disposition.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 938; Pub. L. 97–452, § 1(5), Jan. 12, 1983, 96 Stat. 2467; Pub. L. 98–34, § 2, May 26, 1983, 97 Stat. 196; Pub. L. 98–302, § 2, May 25, 1984, 98 Stat. 217; Pub. L. 99–272, title XIII, § 13212, Apr. 7, 1986, 100 Stat. 325; Pub. L. 100–203, title IX, § 9403, Dec. 22, 1987, 101 Stat. 1330–377; Pub. L. 100–647, title VI, § 6301, Nov. 10, 1988, 102 Stat. 3755.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3102(a)	31:752(1st par.).	Sept. 24, 1917, ch. 56, § 1(1st par.), 40 Stat. 288; restated Apr. 4, 1918, ch. 44, § 1, 40 Stat. 502; July 9, 1918, ch. 142, § 1, 40 Stat. 844; Mar. 3, 1931, ch. 433, 46 Stat. 1506; Feb. 4, 1935, ch. 5, § 1, 49 Stat. 20; May 26, 1938, ch. 285, § 1, 52 Stat. 447.
	31:752(2d par. less form of bonds).	Sept. 24, 1917, ch. 56, § 1(2d par. less form of bonds), 40 Stat. 288; restated Apr. 4, 1918, ch. 44, § 1, 40 Stat. 502; Mar. 17, 1971, Pub. L. 92–5, § 3, 85 Stat. 5; July 1, 1973, Pub. L. 93–53, § 2, 87 Stat. 135; Mar. 15, 1976, Pub. L. 94–232, § 3(a), 90 Stat. 217; June 30, 1976, Pub. L. 94–334, § 2, 90 Stat. 793; Oct. 4, 1977, Pub. L. 95–120, § 3, 91 Stat. 1090; Aug. 3, 1978, Pub. L. 95–333, § 3, 92 Stat. 419; Apr. 2, 1979, Pub. L. 96–5, § 3, 93 Stat. 8; Sept. 29, 1979, Pub. L. 96–78, § 102, 93 Stat. 589; Oct. 3, 1980, Pub. L. 96–377, § 2, 94 Stat. 1512.
3102(b)	31:752(3d par. 1st sentence words before 4th comma).	Sept. 24, 1917, ch. 56, § 1(3d par.), 40 Stat. 288; restated Apr. 4, 1918, ch. 44, § 1, 40 Stat. 502.
	31:752(4th par. related to a popular loan).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 1(4th par.); added Jan. 30, 1934, ch. 6, § 14(a)(1), 48 Stat. 343.
3102(c)(1)	31:752(3d par. 1st sentence words between 4th comma and proviso), (4th par. related to allotments).	
3102(c)(2)	31:752(3d par. 1st sentence proviso).	
3102(d)	31:752(3d par. last sentence).	
3102(e)	31:752(3d par. 2d sentence).	

In subsection (a), the word ''amounts'' is substituted for ''sum or sums'' for consistency. The words ''as in his judgment may be'' are omitted as surplus. The words ''for expenditures authorized by law'' are substituted for ''for the purposes of this Act . . . and to meet expenditures authorized for the national security and defense and other public purposes authorized by law'' because they are inclusive and for consistency. The words ''under section 3111 of this title'' are substituted for ''at or before maturity, of any outstanding bonds, notes, certificates of indebtedness, or Treasury bills of the United States'' because of the restatement. The words ''prescribe conditions under section 3121 of this title'' are substituted for the text of 31:752(2d par. 1st sentence less form of bonds, 2d sentence) because of the restatement. The words ''at any annual interest rate'' are added for clarity and to more precisely define the 4.25 percent limitation. The words ''bonds may not be issued under this section to the public, or sold by a Government account to the public, with a rate of interest exceeding 4¼ per centum per annum in an amount which would cause'' are omitted as surplus.

In subsections (b), (d), and (e), the words ''not less than par'' are omitted as superseded by section 3 of the Public Debt Act of 1942 (ch. 205, 56 Stat. 189), restated in section 3121 of the revised title.

In subsection (b), the words ''under regulations of the Secretary that allow'' are substituted for ''under such regulations, prescribed by the Secretary of the Treasury from time to time, as will in his opinion give'' to eliminate unnecessary words. The words ''subscribing to the offered bonds'' are substituted for ''therein'' for clarity. The words ''However . . . when the Secretary decides the other way is in the public interest'' are substituted for ''Notwithstanding the provisions of the foregoing paragraph, the Secretary of the Treasury

may from time to time, when he deems it to be in the public interest'' to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words ''and may from time to time adopt any or all of said methods, should any such action'' in 31:752(3d par. 1st sentence words between 4th comma and proviso) are omitted because of the restatement. The word ''decides'' is substituted for ''deemed'' in 31:752(3d par. 1st sentence words between 4th comma and proviso) and ''deems'' in 31:752a(4th par. related to allotments) for consistency. The words ''in making a bond offering under this section'' are added for clarity.

In subsection (c)(2), the word ''regulations'' is substituted for ''general rules'' for consistency in the revised title and with other titles of the United States Code.

In subsection (d), the words ''members of armed forces'' are substituted for ''persons in the military or naval forces of the United States'' for clarity and consistency with title 10.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3102(a)	31 App.:752(2d par. less form of bonds).	Sept. 3, 1982, Pub. L. 97–248, § 289(c), 96 Stat. 572.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–647 struck out at end: ''However, the face amount of bonds issued under this section and held by the public with interest rates of more than 4.25 percent a year may not be more than $270,000,000,000.''

1987—Subsec. (a). Pub. L. 100–203 substituted ''$270,000,000,000'' for ''$250,000,000,000''.

1986—Subsec. (a). Pub. L. 99–272 substituted ''$250,000,000,000'' for ''$200,000,000,000''.

1984—Subsec. (a). Pub. L. 98–302 substituted ''$200,000,000,000'' for ''$150,000,000,000''.

1983—Subsec. (a). Pub. L. 98–34 substituted ''$150,000,000,000'' for ''$110,000,000,000''.

Pub. L. 97–452 substituted ''$110,000,000,000'' for ''$70,000,000,000''.

§ 3103. Notes

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue notes of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may prescribe conditions under section 3121 of this title. Notwithstanding section 3121(a)(5) of this title, the payment date of each series of notes issued shall be at least one year but not more than 10 years from the date of issue.

(b) The Government may redeem any part of a series of notes before maturity by giving at least 4 months' notice but not more than one year's notice.

(c) The holder of a note of one series issued under this section with the same issue date as another series of notes issued under this section may convert, at par value, a note of the holder for a note of the other series.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 939.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3103(a), (b).	31:753(a)(less form of notes, certificates of indebtedness, and Treasury bills).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 18(a)(less form of notes, certificates of indebtedness, and Treasury bills); added Mar. 3, 1919, ch. 100, § 1, 40 Stat. 1309; Nov. 23, 1921, ch. 136, § 1401, 42 Stat. 321; Jan. 30, 1934, ch. 6, § 14(a)(3), 48 Stat. 343; restated Feb. 4, 1935, ch. 5, § 4, 49 Stat. 20; June 30, 1967, Pub. L. 90–39, § 4, 81 Stat. 99; Mar. 15, 1976, Pub. L. 94–232, § 3(b), 90 Stat. 217.
3103(c)	31:753(c).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 18(c); added Mar. 3, 1919, ch. 100, § 1, 40 Stat. 1310.

In subsection (a), the words ''In addition to the bonds and certificates of indebtedness and war-savings certificates authorized by this Act, and amendments thereto'' are omitted as unnecessary. The words ''subject to the limitation imposed by section 757b of this title'' are omitted as surplus. The word ''Government'' is added for consistency. The words ''for expenditures authorized by law'' are substituted for ''for the purposes of this Act . . . and to meet public expenditures authorized by law'' for clarity and because they are inclusive. The words ''under section 3111 of this title'' are substituted for ''at or before maturity, of any outstanding bonds, notes, certificates of indebtedness, or Treasury bills of the United States'' because of the restatement. The words ''denomination or denominations'' are omitted because section 3121(a) of the revised title consolidates this authority in one section for the various types of debt instruments. The words ''under section 3121 of this title'' are substituted for ''containing such terms and conditions, and at such rate or rates of interest'' because of the restatement. The words ''at not less than par (except as provided in section 754b of this title)'' are omitted as superseded by section 3 of the Public Debt Act of 1942 (ch. 205, 56 Stat. 189), restated in section 3121 of the revised title. The words ''Notwithstanding section 3121(a)(5) of this title'' are added for clarity because the section cited contains the general authority to which subsection (a)(last sentence) of this section is an exception.

In subsection (b), the words ''at the option of'' and ''and under such rules and regulations and during such period as he may prescribe'' are omitted as surplus.

Subsection (c) is substituted for 31:753(c) to eliminate unnecessary words and for clarity and consistency.

§ 3104. Certificates of indebtedness and Treasury bills

(a) The Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may buy, redeem, and make refunds under section 3111 of this title. For amounts borrowed, the Secretary may issue—

(1) certificates of indebtedness of the Government; and

(2) Treasury bills of the Government.

(b) The Secretary may prescribe conditions for issuing certificates of indebtedness and Treasury bills under section 3121 of this title and conditions under which the certificates and bills may be redeemed before maturity. Notwithstanding section 3121(a)(5) of this title, the payment date of certificates of indebtedness and Treasury bills may not be more than one year after the date of issue.

(c) Treasury bills issued under this section may not be accepted before maturity to pay

principal or interest on obligations of governments of foreign countries that are held by the United States Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 939.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3104(a)	31:754(a)(1st, 2d sentences).	Sept. 24, 1917, ch. 56, § 5(a)(less form of certificates of indebtedness and Treasury bills, finality), 40 Stat. 290; Apr. 4, 1918, ch. 44, § 4, 40 Stat. 504; Mar. 3, 1919, ch. 100, § 3, 40 Stat. 1311; restated June 17, 1929, ch. 26, 46 Stat. 19; Feb. 4, 1935, ch. 5, §§ 2, 3, 49 Stat. 20.
3104(b)	31:754(a)(3d sentence)(less form of certificates of indebtedness and Treasury bills, finality).	
3104(c)	31:754(a)(last sentence).	

In subsection (a), before clause (1), the words ''In addition to the bonds and notes authorized by sections 752, 753, and 757c of this title'' are omitted as unnecessary. The words ''subject to the limitation imposed by section 757b of this title'' are omitted as surplus. The words ''for expenditures authorized by law'' are substituted for ''for the purposes of this Act . . . and to meet public expenditures authorized by law'' for clarity and because they are inclusive. The words ''under section 3111 of this title'' are substituted for ''at or before maturity, of any outstanding bonds, notes, certificates of indebtedness or Treasury bills of the United States'' because of the restatement. The words ''at not less than par'' are omitted as superseded by section 3 of the Public Debt Act of 1942 (ch. 205, 56 Stat. 189), restated in section 3121 of the revised title. The text of 31:754(a)(2d sentence) is omitted as superseded by section 3121(a) of the revised title. In clause (1), the words ''and at such rate or rates of interest, payable at such time or times as he may prescribe'' are omitted because they are superseded by section 3121(a), (b)(1), and (c) of the revised title. In clause (2), the words ''on a discount basis and payable at maturity without interest'' are omitted because they are superseded by section 3121(a) of the revised title. The words ''of the Government'' are added for consistency.

In subsection (b), the words ''terms and'' after ''upon such'' are omitted as surplus. The words ''for issuing . . . under section 3121 of this title'' are substituted for ''subject to such terms and conditions'' because of the restatement. The words ''Notwithstanding section 3121(a)(5) of this title'' are substituted for ''shall be payable at such time'' for clarity because the section cited contains the general authority to which subsection (c)(last sentence) of this section is an exception.

In subsection (c), the words ''account of'' are omitted as surplus.

§ 3105. Savings bonds and savings certificates

(a) With the approval of the President, the Secretary of the Treasury may issue savings bonds and savings certificates of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. Proceeds from the bonds and certificates shall be used for expenditures authorized by law. Savings bonds and certificates may be issued on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis. Savings bonds shall mature not more than 20 years from the date of issue. Savings certificates shall mature not more than 10 years from the date of issue. The difference between the price paid and the amount received on redeeming a savings bond or certificate is interest under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(b)(1) The Secretary may—

(A) fix the investment yield for savings bonds; and

(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

(2) The Secretary may prescribe regulations providing that—

(A) owners of savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

(B) savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1).

(c) The Secretary may prescribe for savings bonds and savings certificates issued under this section—

(1) the form and amount of an issue and series;

(2) the way in which they will be issued;

(3) the conditions, including restrictions on transfer, to which they will be subject;

(4) conditions governing their redemption;

(5) their sales price and denominations;

(6) a way to evidence payments for or on account of them and to provide for the exchange of savings certificates for savings bonds; and

(7) the maximum amount issued in a year that may be held by one person.

(d) The Secretary may authorize financial institutions to make payments to redeem savings bonds and savings notes. A financial institution may be a paying agent only if the institution—

(1) is incorporated under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States;

(2) in the usual course of business accepts, subject to withdrawal, money for deposit or the purchase of shares;

(3) is under the supervision of a banking authority of the jurisdiction in which it is incorporated;

(4) has a regular office to do business; and

(5) is qualified under regulations prescribed by the Secretary in carrying out this subsection.

(e)(1) The Secretary may prescribe a way in which a check issued to an individual (except a trust or estate) as a refund for taxes imposed under subtitle A of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) may become a series E savings bond. However, a check may become a bond only if the claim for a refund is filed by the last day prescribed by law for filing the return (determined without any extensions) for the taxable year for which the refund is made. The Secretary may prescribe the time and way in which the check becomes a bond.

(2) A bond issued under this subsection is deemed to be a series E bond issued under this section, except that the bond shall bear an issue date of the first day of the first month beginning after the close of the taxable year for which the bond is issued. The Secretary also may provide that a bond issued to joint payees may be redeemed by either payee alone.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 940; Pub. L. 97–452, §1(6), (7), Jan. 12, 1983, 96 Stat. 2467, 2468; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–465, title VII, §745(a), Dec. 8, 1994, 108 Stat. 5011.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3105(a)	31:757c(a)(1st sentence), (b)(1)(1st sentence), (d)(1st sentence).	Sept. 24, 1917, ch. 56, 40 Stat. 288, §22(a)–(d)(1st sentence); added Feb. 4, 1935, ch. 5, §6, 49 Stat. 21; restated Feb. 19, 1941, ch. 7, §3, 55 Stat. 7; Mar. 26, 1951, ch. 19, §1, 65 Stat. 26; Apr. 20, 1957, Pub. L. 85–17, §1, 71 Stat. 15; Sept. 22, 1959, Pub. L. 86–346, §101(b), 73 Stat. 621; Dec. 1, 1969, Pub. L. 91–130, §§1, 2(b), 83 Stat. 272; Aug. 24, 1970, Pub. L. 91–388, §3, 84 Stat. 830; Mar. 15, 1976, Pub. L. 94–232, §4, 90 Stat. 217; Apr. 2, 1979, Pub. L. 96–5, §4, 93 Stat. 8; Oct. 3, 1980, Pub. L. 96–377, §1, 94 Stat. 1512.
3105(b)(1)	31:757c(b)(1)(2d sentence proviso, last sentence).	
3105(b)(2)	31:757c(b)(3).	
3105(b)(3)	31:757c(b)(2).	
3105(c)	31:757c(a)(last sentence), (b)(1)(2d sentence less proviso, 3d, 4th sentences), (c).	
3105(d)	31:757c(h).	Sept. 24, 1917, ch. 56, 40 Stat. 288, §22(h); added Apr. 11, 1943, ch. 52, §3, 57 Stat. 63; restated Apr. 3, 1945, ch. 51, §3, 59 Stat. 47; Oct. 17, 1968, Pub. L. 90–595, §1, 82 Stat. 1155.
3105(e)	31:757c(j).	Sept. 24, 1917, ch. 56, 40 Stat. 288, §22(j); added July 1, 1973, Pub. L. 93–53, §3(a), 87 Stat. 135.

In subsection (a), the words ''through the United States Postal Service or otherwise'' and ''Treasury'' before ''savings'' are omitted as surplus. The words ''and may buy, redeem, and make refunds under section 3111 of this title'' are added because of the restatement. The words ''for expenditures authorized by law'' are substituted for ''to meet any public expenditures authorized by law, and to retire any outstanding obligations of the United States bearing interest or issued on a discount basis'' for clarity and because they are inclusive. The word ''combination'' is omitted as surplus.

In subsection (b)(1), the words ''Except as provided in paragraph (2) of this subsection'' are added for clarity. The word ''conditions'' is substituted for ''terms'' for consistency in the revised title and with other titles of the United States Code. The word ''calendar'' is omitted as surplus. The words ''(or, beginning on October 1, 1976, if later)'' are omitted as executed.

In subsection (b)(3), the words ''at their option'' and ''upon them'' are omitted as surplus. The last sentence is substituted for 31:757c(b)(2)(B) for clarity.

In subsection (c), before clause (1), the words ''subject to the limitation imposed by section 757b of this title'' are omitted as surplus. The words ''issued under this section'' are added for clarity. In clause (3), the words ''terms and'' are omitted as surplus. The words ''consistent with subsections (b) to (d) of this section'' are omitted as unnecessary because of the restatement. In clause (4), the words ''before maturity'' are omitted as surplus. In clause (6), the words ''a way to evidence payments for'' are substituted for ''issue, or cause to be issued, stamps, or may provide any other means to evidence payments for'' because they are inclusive. The text of 31:757c(c)(last sentence) is omitted because section 5 of the Public Debt Act of 1942 (ch. 205, 56 Stat. 189), ended the authority of the Postmaster General to issue stamps. In clause (7), the word ''maximum'' is added for clarity. The words ''at any one time'' are omitted as surplus.

In subsection (d), before clause (1), the words ''under such regulations as he may prescribe'', ''or permit'', and ''commercial banks, trust companies, savings banks, savings and loan associations, building and loan associations (including cooperative banks), credit unions, cash depositories, industrial banks, and similar'' are omitted as surplus. In clause (1), the words ''Commonwealth of the Philippine Islands'' in section 22(h) of the Second Liberty Bond Act (ch. 56, 40 Stat. 288) are omitted because of Proclamation No. 2695 (July 24, 1946, 60 Stat. 1352) proclaiming the independence of the Philippines. In clause (3), the words ''department or equivalent'' are omitted as surplus. In clause (5), the word ''duly'' is omitted as surplus.

In subsection (e)(1), the words ''by regulations'' are omitted as unnecessary. The words ''a way'' are added, and the words ''However, a check may become a bond'' are substituted for ''This subsection shall apply'', for clarity.

In subsection (e)(2), the words ''Except as provided in paragraph (2)'' are omitted as unnecessary. The words ''is deemed to be'' are substituted for ''shall be treated for all purposes of law as'' because a legal fiction is intended. The words ''calendar'' and ''In the case of . . . under this subsection'' are omitted as surplus.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3105(b)(1)	31 App.:757c(b)(1) (2d sentence).	Sept. 3, 1982, Pub. L. 97–248, §289(a)(1)(A), (B), (D), 96 Stat. 571.
3105(b)(2)	31 App.:757c(b)(3)	
3105(b)(3)	31 App.:757c(b)(2).	
3105(c)	31 App.:757c(b)(1) (3d sentence).	Sept. 3, 1982, Pub. L. 97–248, §289(a)(1)(C), 96 Stat. 571.

In subsection (b)(1), before clause (A), the words ''and except as provided in paragraph (2) of this subsection'' are added for clarity. In clause (B), the word ''change'' is substituted for ''provide for increases and decreases in'' to eliminate unnecessary words. The word ''investment'' is omitted the 2d time it appears as surplus.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–465 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(b)(1) With the approval of the President and except as provided in paragraph (2) of this subsection, the Secretary may—

''(A) fix the investment yield for savings bonds; and

''(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

''(2) The investment yield on a series E savings bond shall be at least 4 percent a year compounded semiannually beginning on the first day of the month beginning after the date of issue of the bond and ending on the last day of the month before the date of redemption.

''(3) With the approval of the President, the Secretary may prescribe regulations providing that—

''(A) owners of series E and H savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

''(B) series E and H savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1).''

1986—Subsecs. (a), (e)(1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1983—Subsec. (b). Pub. L. 97–452, § 1(6), added par. (1) and redesignated former par. (1) as (2), in par. (2) as so redesignated, struck out provision that except as provided in former par. (2), the interest rate on, and the issue price of, savings bonds and savings certificates and the conditions under which they might be redeemed might not yield more than 5.5 percent a year compounded semiannually, struck out former par. (2) which provided that the Secretary with the President's approval might fix the yield on savings bonds at any percent per year compounded semiannually, but that total increases in a six-month period might not exceed one percent a year compounded semiannually, redesignated provisions of par. (3) as subpars. (A) and (B), and, in subpar. (B), as so redesignated, substituted provisions that series E and H savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with par. (1) for provision that series E and H savings bonds earning a higher rate of interest before the regulations were prescribed would continue to earn a higher rate of interest consistent with par. (1).

Subsec. (c)(5). Pub. L. 97–452, § 1(7), struck out ''(expressed in terms of the maturity value)'' after ''denominations''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 745(b) of Pub. L. 103–465 provided that: ''The amendment made by this section [amending this section] shall apply to bonds issued after October 31, 1994.''

EX. ORD. NO. 11981. INTERAGENCY COMMITTEE FOR THE PURCHASE OF UNITED STATES BONDS

Ex. Ord. No. 11981, Mar. 29, 1977, 42 F.R. 17095, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the Interagency Committee for the Purchase of United States Savings Bonds (hereinafter referred to as the Committee). The Committee shall consist of a Chairman, who is to be appointed by the President for a term of two years, and the heads of Federal agencies. Each member of the Committee is responsible for the success of the Payroll Savings Program in his agency.

(b) Members of the Committee may designate an alternate, who shall serve as a member of the Committee whenever the regular member is unable to attend any meeting of the Committee. The alternate member may be authorized to act for the regular member in all appropriate matters relating to the Committee. In the case of an executive or military department, a Deputy Secretary or an Under Secretary may be designated as an alternate member. In the case of any other Federal agency, the alternate member shall be designated from among the officials thereof of appropriate rank.

(c) The Chairman will designate the Federal Payroll Savings Officer of the Savings Bonds Division, Department of the Treasury, to act as his liaison officer with members of the Committee.

SEC. 2. The Committee shall perform the following functions and duties:

(a) Formulating and presenting to the Federal agencies a plan of organization and sales promotion whereby the Payroll Savings Plan and Military Bond Allotment Plan, hereinafter referred to as the Plans, will be made available to all uniformed and civilian personnel of the government for the purchase of Savings Bonds, and whereby all such personnel will be urged to participate.

(b) Assisting the Federal agencies in installing the Plans and in solving any special problems that may develop in connection therewith.

(c) Acting as a clearinghouse for Federal agencies in compiling and disseminating such statistics and information with respect to the implementation and sales promotion of the Plans as may be appropriate.

(d) Recommending to the Federal agencies any methods for improvements in the program adopted pursuant to the Plans.

(e) The Committee will meet, and will be available to meet with the President, at least once each calendar year and at such other times as may be necessary to carry out its responsibilities.

SEC. 3. Each Federal agency shall institute and put into operation, as soon as practicable, a plan of organization and sales promotion recommended by the Committee, with such modifications as particular circumstances may render advisable.

SEC. 4. As used in this Order, the term ''Federal agencies'' means departments, agencies, and establishments of the Executive branch of the Government.

SEC. 5. This Order supersedes Executive Order No. 11532 of June 2, 1970.

JIMMY CARTER.

TRANSITIONAL RULE

Pub. L. 97–248, title II, § 289(b), Sept. 3, 1982, 96 Stat. 57, provided that for a savings bond issued before the 30th day after Sept. 3, 1982, for purposes of sections 757c and 757c–2 of former Title 31, the minimum yield for the period held is the scheduled investment yield for the period in effect on the 30th day.

§ 3106. Retirement and savings bonds

(a) With the approval of the President, the Secretary of the Treasury may issue retirement and savings bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds from the bonds shall be used for expenditures authorized by law. Retirement and savings bonds may be issued only on a discount basis. The maturity period of the bonds shall be at least 10 years from the date of issue but not more than 30 years from the date of issue. The difference between the price paid and the amount received on redeeming a bond is interest under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(b) With the approval of the President, the Secretary may allow owners of retirement and savings bonds to keep the bonds after maturity and continue to earn interest on them at rates that are consistent with the rate of investment yield provided by retirement and savings bonds.

(c) Section 3105(c)(1)–(5) of this title applies to this section. Sections 3105(c)(6) and (d) and 3126 of this title apply to this section to the extent consistent with this section. The Secretary may prescribe the maximum amount of retirement and savings bonds issued under this section in a year that may be held by one person. However, the maximum amount shall be at least $3,000.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 941; Pub. L. 97–452, § 1(8), Jan. 12, 1983, 96 Stat. 2468; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3106(a)	31:757c–2(a)(1st sentence), (b)(1)(1st sentence), (c)(1st sentence).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 22A(a)–(c)(1st sentence), (d); added Nov. 8, 1966, Pub. L. 89–800, § 5, 80 Stat. 1514.
3106(b)	31:757c–2(b)(1)(2d sentence words after 1st comma), (2).	
3106(c)	31:757c–2(a)(last sentence), (b)(1)(2d sentence words before 1st comma, 3d, last sentences), (d).	

In subsection (a), the words ''In addition to the United States savings bonds authorized to be issued under section 757c of this title'' are omitted as surplus. The words ''through the United States Postal Service or otherwise'' are omitted as surplus and unnecessary because of 39:411. The words ''and may buy, redeem, and make refunds under section 3111 of this title'' are added because of the restatement. The words ''and to retire any outstanding obligations of the United States bearing interest or issued on a discount basis'' are omitted as unnecessary because of section 3111 of the revised title. The words ''as the terms thereof may provide'' are omitted because of the restatement.

In subsection (b), the word ''conditions'' is substituted for ''terms'' for consistency in the revised title and with other titles of the United States Code. The words ''by regulations'' are omitted as unnecessary. The words ''at their option'' are omitted as surplus.

In subsection (c), the words ''Section 3105(c)(1)–(5) of this title applies to this section'' are substituted for 31:757c–2(a)(last sentence) and (b)(1)(2d sentence words before 1st comma, 3d sentence) to eliminate unnecessary words. The words ''by regulations'' are omitted as unnecessary.

1983 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3106(b)	31 App.:757c–2 (b)(1) (2d sentence).	Sept. 3, 1982, Pub. L. 97–248, § 289(a)(2), 96 Stat. 571.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1983—Subsec. (b). Pub. L. 97–452 struck out provisions that the issue price of retirement and savings bonds and the conditions under which they could be redeemed could give an investment yield of not more than 5 percent a year compounded semiannually.

§ 3107. Increasing interest rates and investment yields on retirement bonds

With the approval of the President, the Secretary of the Treasury may increase by regulation the interest rate or investment yield on an offering of bonds issued under this chapter that are described in sections 405(b) and 409(a) of the Internal Revenue Code of 1954 (26 U.S.C. 405(b), 409(a)), as in effect before the enactment of the Tax Reform Act of 1984. The increased yield shall be for interest accrual periods specified in the regulations so that the interest rate or investment yield on the bonds for those periods is consistent with the interest rate or investment yield on a new offering of those bonds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 941; Pub. L. 98–369, div. A, title IV, § 491(d)(59), July 18, 1984, 98 Stat. 852.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3107	31:752(last par.).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 1(last par.); added Dec. 24, 1980, Pub. L. 96–595, § 2(a), 94 Stat. 3465.

The words ''interest rate'' are added for consistency in the chapter and with 26:405(b) and 409(a).

REFERENCES IN TEXT

Sections 405(b) and 409(a) of the Internal Revenue Code of 1954 (26 U.S.C. 405(b), 409(a)), referred to in text, were repealed by Pub. L. 98–369, div. A, title IV, § 491(a), (b), July 18, 1984, 98 Stat. 848.

Enactment of the Tax Reform Act of 1984, referred to in text, means the date of enactment of division A of Pub. L. 98–369, which was approved July 18, 1984.

AMENDMENTS

1984—Pub. L. 98–369 inserted '', as in effect before the enactment of the Tax Reform Act of 1984'' after ''(26 U.S.C. 405(b), 409(a))''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of Title 26, Internal Revenue Code.

§ 3108. Prohibition against circulation privilege

An obligation issued under sections 3102–3104(a)(1) and 3105–3107 of this title may not bear the circulation privilege.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 942.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3108	31:753(d)(1st sentence).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 18(d)(1st sentence); added Mar. 3, 1919, ch. 100, § 1, 40 Stat. 1310.
	31:757c(d)(last sentence).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 22(d)(last sentence); added Feb. 4, 1935, ch. 5, § 6, 49 Stat. 21; restated Feb. 19, 1941, ch. 7, § 3, 55 Stat. 8.
	31:757c–2(c)(last sentence).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 22A(c)(last sentence); added Nov. 8, 1966, Pub. L. 89–800, § 5, 80 Stat. 1515.
	31:758.	Sept. 24, 1917, ch. 56, § 7(1st sentence), 40 Stat. 291.

The reference in 31:758 to certificates authorized under 31:757 is omitted because the authority under 31:757 was ended by section 2(b)(3) of the Public Debt Act of 1941 (ch. 7, 55 Stat. 7).

§ 3109. Tax and loss bonds

(a) The Secretary of the Treasury may issue tax and loss bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds of the tax and loss bonds shall be used for expenditures authorized by law. Tax and loss bonds are nontransferrable except as provided by the Secretary, bear no interest, and shall be issued in amounts needed to allow persons to comply with section 832(e) of the Internal Revenue Code of 1986 (26 U.S.C. 832(e)). The Secretary may prescribe the amount of tax and loss bonds and the conditions under which the bonds will be issued as required by section 832(e).

(b) For a taxable year in which amounts are deducted from the mortgage guaranty account

referred to in section 832(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 832(e)(3)), an amount of tax and loss bonds bought under section 832(e)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 832(e)(2)) shall be redeemed for the amount deducted from the account. The amount redeemed shall be applied as necessary to pay taxes due because of the inclusion under section 832(b)(1)(E) of the Internal Revenue Code of 1986 (26 U.S.C. 832(b)(1)(E)) of amounts in gross income. The Secretary also may prescribe additional ways to redeem the bonds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 942; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3109(a)	31:757c–3(1st–3d sentences).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 26; added Jan. 2, 1968, Pub. L. 90–240, § 5(f), 81 Stat. 778.
3109(b)	31:757c–3(4th, last sentences).	

In subsection (a), the words ''and may buy, redeem, and make refunds under section 3111 of this title'' are substituted for ''and to retire any outstanding obligations of the United States issued under this Act'' for consistency. The words ''subject to the limitations imposed by section 757b of this title'' are omitted as surplus. The word ''conditions'' is substituted for ''terms and conditions'' because it is inclusive.

AMENDMENTS

1986—Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'' wherever appearing.

§ 3110. Sale of obligations of governments of foreign countries

(a) With the approval of the President, the Secretary of the Treasury may sell obligations of the government of a foreign country when the obligations were acquired under—

(1) the First Liberty Bond Act and matured before June 16, 1947;

(2) the Second Liberty Bond Act and matured before October 16, 1938; or

(3) section 7(a) of the Victory Liberty Loan Act.

(b) The Secretary may prescribe the conditions and frequency for receiving payment under obligations of a government of a foreign country acquired under the laws referred to in subsection (a) of this section. A sale of an obligation acquired under those Acts shall at least equal the purchase price and accrued interest. The proceeds of obligations sold under this section and payments received from governments on the principal of their obligations shall be used to redeem or buy (for not more than par value and accrued interest) bonds of the United States Government issued under this chapter. If those bonds cannot be redeemed or bought, the Secretary shall redeem or buy other outstanding interest-bearing obligations of the Government that are subject to redemption or which can be bought at not more than par value and accrued interest.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 942.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3110	31:801.	Sept. 24, 1917, ch. 56, § 3, 40 Stat. 289.
	31:802, 803.	Mar. 3, 1919, ch. 100, §§ 7(b), 8, 40 Stat. 1312, 1313.
	31:804.	Apr. 24, 1917, ch. 4, § 3, 40 Stat. 35.

In the section, the words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the text of 31:801 and 802 (related to converting certain obligations of foreign governments into obligations bearing a higher rate of interest or with a longer term to maturity) is omitted as executed.

In subsection (b), the text of 31:804 is omitted as unnecessary. The word ''conditions'' is substituted for ''terms and conditions'' because it is inclusive. The words ''unless otherwise hereafter provided by law'' are omitted as surplus.

REFERENCES IN TEXT

The First Liberty Bond Act, referred to in subsec. (a)(1), is act Apr. 24, 1917, ch. 4, 40 Stat. 35, which enacted sections 746, 755, 755a, 759, 764, 774, and 804 of former Title 31 and section 462a of Title 12, Banks and Banking, and amended sections 745 and 768 of former Title 31, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1072.

The Second Liberty Bond Act, referred to in subsec. (a)(2), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which enacted sections 747, 752 to 754b, 757, 757b, 757c to 757e, 758, 760, 765, 766, 771, 773, and 801 and amended sections 745, 764, 769, and 774 of former Title 31, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1072.

Section 7(a) of the Victory Liberty Loan Act, referred to in subsec. (a)(3), is section 7(a) of act Mar. 3, 1919, ch. 100, 40 Stat. 1309, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1072.

§ 3111. New issue used to buy, redeem, or refund outstanding obligations

An obligation may be issued under this chapter to buy, redeem, or refund, at or before maturity, outstanding bonds, notes, certificates of indebtedness, Treasury bills, or savings certificates of the United States Government. Under regulations of the Secretary of the Treasury, money received from the sale of an obligation and other money in the general fund of the Treasury may be used in making the purchases, redemptions, or refunds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 942.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3111	31:754a.	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 19; added Jan. 30, 1934, ch. 6, § 14(a)(4), 48 Stat. 343; restated Mar. 28, 1942, ch. 205, § 4, 56 Stat. 189.

The words ''regulations of'' are substituted for ''rules, regulations, terms, and conditions . . . may prescribe'' to eliminate unnecessary words.

§ 3112. Sinking fund for retiring and cancelling bonds and notes

(a) The Department of the Treasury has a sinking fund for retiring bonds and notes issued under this chapter. Amounts in the fund are ap-

propriated for payment of bonds and notes at maturity or for their redemption or purchase before maturity by the Secretary of the Treasury. The fund is available until all the bonds and notes are retired.

(b) For each fiscal year, an amount is appropriated equal to—

(1) the interest that would have been payable during the fiscal year for which the appropriation is made on the bonds and notes bought, redeemed, or paid out of the fund during that or prior years;

(2) 2.5 percent of the total amount of bonds and notes issued under the First Liberty Bond Act, the Second Liberty Bond Act, the Third Liberty Bond Act, the Fourth Liberty Bond Act, and the Victory Liberty Loan Act and outstanding on July 1, 1920, less an amount equal to the par amount of obligations of governments of foreign countries that the United States Government held on July 1, 1920; and

(3) 2.5 percent of the total amount expended after June 29, 1933, from appropriations made or authorized in sections 301 and 302 of the Emergency Relief and Construction Act of 1932.

(c) The Secretary may prescribe the price and conditions for paying, redeeming, and buying bonds and notes under this section. The average cost of bonds and notes bought under this section may not be more than par value and accrued interest. Bonds and notes bought, redeemed, or paid out of the sinking fund must be canceled and retired and may not be reissued.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 943.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3112(a)	31:767(less 2d sentence related to price, terms, and conditions, 3d, 4th sentences).	Mar. 3, 1919, ch. 100, §6, 40 Stat. 1311; Mar. 2, 1923, ch. 179, 42 Stat. 1427; May 29, 1928, ch. 901, §1(21), 45 Stat. 987; Jan. 30, 1934, ch. 6, §14(b), 48 Stat. 344.
3112(b)	31:767(last sentence).	
	31:767b.	Mar. 3, 1933, ch. 212, §1(last par. on p. 1492), 47 Stat. 1492; Mar. 15, 1934, ch. 70, §1(2d complete par. on p. 428), 48 Stat. 428.
3112(c)	31:767(2d sentence related to price, terms, and conditions, 3d, 4th sentences).	

In subsection (a), the word ''cumulative'' is omitted as surplus. The words ''under this chapter'' are substituted for ''under the First Liberty Bond Act, the Second Liberty Bond Act, the Third Liberty Bond Act, the Fourth Liberty Bond Act, or under this Act, and outstanding on July 1, 1920, and of bonds and notes thereafter issued, under any of such Acts or under any of such Acts as amended'' to eliminate unnecessary words, reference to laws that have been executed, and to reflect consolidation of the public debt authority in the revised chapter. The words ''and all additions thereto'' are omitted as surplus.

Subsection (b)(1) and (2) is substituted for 31:767(last sentence) to eliminate unnecessary words.

In subsection (b)(3), the text of 31:767b(related to 31:767a) is omitted as obsolete.

In subsection (c), the word ''conditions'' is substituted for ''terms and conditions'' because it is inclusive.

REFERENCES IN TEXT

The First Liberty Bond Act, referred to in subsec. (b)(2), is act Apr. 24, 1917, ch. 4, 40 Stat. 35, which enacted sections 746, 755, 755a, 759, 764, 774, and 804 of former Title 31 and section 462a of Title 12, Banks and Banking, and amended sections 745 and 768 of former Title 31, and was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1072.

The Second Liberty Bond Act, referred to in subsec. (b)(2), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which enacted sections 747, 752 to 754b, 757, 757b, 757c to 757e, 758, 760, 765, 766, 771, 773, and 801 and amended sections 745, 764, 769, and 774 of former Title 31, and was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1072.

The Third Liberty Bond Act, referred to in subsec. (b)(2), is act Apr. 4, 1918, ch. 44, 40 Stat. 502, which enacted sections 765, 766, and 774 and amended sections 752, 752a, 754, and 771 of former Title 31, and was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1072.

The Fourth Liberty Bond Act, referred to in subsec. (b)(2), is act July 9, 1918, ch. 142, 40 Stat. 844, which enacted sections 750 and 772 and amended sections 752 and 774 of former Title 31, and was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1072.

The Victory Liberty Loan Act, referred to in subsec. (b)(2), is act Mar. 3, 1919, ch. 100, 40 Stat. 1309, which enacted sections 749, 753, 763, 767, 802, and 803 and amended sections 750, 754, and 774 of former Title 31 and section 343 of Title 15, Commerce and Trade, and was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1072.

Sections 301 and 302 of the Emergency Relief and Construction Act of 1932, referred to in subsec. (b)(3), are sections 301 and 302 of act July 21, 1932, ch. 520, 47 Stat. 709, which are not classified to the Code.

§ 3113. Accepting gifts

(a) To provide the people of the United States with an opportunity to make gifts to the United States Government to be used to reduce the public debt—

(1) the Secretary of the Treasury may accept for the Government a gift of—

(A) money made only on the condition that it be used to reduce the public debt;

(B) an obligation of the Government included in the public debt made only on the condition that the obligation be canceled and retired and not reissued; and

(C) other intangible personal property made only on the condition that the property is sold and the proceeds from the sale used to reduce the public debt; and

(2) the Administrator of General Services may accept for the Government a gift of tangible property made only on the condition that it be sold and the proceeds from the sale be used to reduce the public debt.

(b) The Secretary and the Administrator each may reject a gift under this section when the rejection is in the interest of the Government.

(c) The Secretary and the Administrator shall convert a gift either of them accepts under subsection (a)(1)(C) or (2) of this section to money on the best terms available. If a gift accepted under subsection (a) of this section is subject to a gift or inheritance tax, the Secretary or the Administrator may pay the tax out of the proceeds of the gift or the proceeds of the redemption or sale of the gift.

(d) The Treasury has an account into which money received as gifts and proceeds from the

sale or redemption of gifts under this section shall be deposited. The Secretary shall use the money in the account to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt. An obligation of the Government that is paid, redeemed, or bought with money from the account shall be canceled and retired and may not be reissued. Money deposited in the account is appropriated and may be expended to carry out this section.

(e)(1) The Secretary shall redeem a direct obligation of the Government bearing interest or sold on a discount basis on receiving it when the obligation—

(A) is given to the Government;

(B) becomes the property of the Government under the conditions of a trust; or

(C) is payable on the death of the owner to the Government (or to an officer of the Government in the officer's official capacity).

(2) If the gift or transfer to the Government is subject to a gift or inheritance tax, the Secretary shall pay the tax out of the proceeds of redemption.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 943.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3113(a)	31:901(less (b)(proviso)).	June 27, 1961, Pub. L. 87–58, 75 Stat. 119.
3113(b)	31:901(b)(proviso).	
3113(c)	31:902, 903.	
3113(d)	31:904.	
3113(e)	31:757e.	Sept. 24, 1917, ch. 56, 40 Stat. 288, §24; added Apr. 3, 1945, ch. 51, §4, 59 Stat. 48.

In subsection (a), before clause (1), the words ''In order'' are omitted as surplus. The words ''To provide'' are substituted for ''to afford'' for clarity. The words ''for the purpose'' are omitted as unnecessary. In clauses (1) and (2), the word ''for'' is substituted for ''on behalf of'' for consistency. The word ''realized'' is omitted as surplus. In clause (2), the word ''tangible'' is substituted for ''real or personal'' to eliminate unnecessary words.

In subsections (b) and (c), the words ''as the case may be'' are omitted as unnecessary.

In subsection (c), the words ''under applicable law'' are omitted as surplus.

In subsection (d), the words ''on the books of'' and ''special'' are omitted as surplus. The words ''proceeds from the sale or redemption of gifts'' are substituted for ''all money received as a result of the conversion into money of gifts of property other than money received'' for clarity and consistency.

In subsection (e)(1), the word ''Secretary'' is substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321(c) of the revised title. In clause (A), the word ''given'' is substituted for ''is donated . . . is bequeathed by will'' to eliminate unnecessary words. In clause (B), the word ''conditions'' is substituted for ''terms'' for consistency in the revised title and with other titles of the United States Code. In clause (C), the words ''by its terms'' are omitted as surplus.

In subsection (e)(2), the words ''under applicable law'' and ''bequest'' are omitted as surplus. The words ''and shall deposit the balance in the Treasury as miscellaneous receipts or as otherwise authorized by law'' are omitted as surplus because of section 3302(a) of the revised title. The text of 31:757e(last sentence) is omitted because of the restatement.

SUBCHAPTER II—ADMINISTRATIVE

§ 3121. Procedure

(a) In issuing obligations under sections 3102–3104 of this title, the Secretary of the Treasury may prescribe—

(1) whether an obligation is to be issued on an interest-bearing basis, a discount basis, or an interest-bearing and discount basis;

(2) regulations on the conditions under which the obligation will be offered for sale, including whether it will be offered for sale on a competitive or other basis;

(3) the offering price and interest rate;

(4) the method of computing the interest rate;

(5) the dates for paying principal and interest;

(6) the form and denominations of the obligations; and

(7) other conditions.

(b)(1) Under conditions prescribed by the Secretary, an obligation issued under this chapter and redeemable on demand of the owner or holder may be used to pay the United States Government for taxes imposed by it.

(2) An obligation of the Government issued after March 3, 1971, under law may not be redeemed before its maturity to pay a tax imposed by the Government in an amount more than the fair market value of the obligation at the time of its redemption. This paragraph does not apply to a Treasury bill issued under section 3104 of this title.

(c) Under conditions prescribed by the Secretary, an obligation authorized by this chapter may be issued in exchange for an obligation of an agency whose principal and interest are unconditionally guaranteed by the Government at or before maturity.

(d) Under conditions prescribed by the Secretary, the Secretary may issue registered bonds in exchange for and instead of coupon bonds that have been or may be issued. The registered bonds shall be similar in all respects to the registered bonds issued under a law authorizing the issue of coupon bonds offered for exchange.

(e) A decision of the Secretary about an issue of obligations under sections 3102–3104 of this title is final.

(f) The Secretary may accept voluntary services in carrying out the sale of public debt obligations.

(g)(1) In this subsection, ''registration-required obligation'' means an obligation except an obligation—

(A) not of a type offered to the public;

(B) having a maturity (at issue) of not more than one year; or

(C) described in paragraph (2) of this subsection.

(2) An obligation is not a registration-required obligation if—

(A) there are arrangements reasonably designed to ensure that the obligation will be sold (or resold in connection with the original issue) only to a person that is not a United States person; and

(B) for an obligation not in registered form—

(i) interest on the obligation is payable only outside the United States and its territories and possessions; and

(ii) a statement is on the face of the obligation that a United States person holding the obligation is subject to limitations under the United States income tax laws.

(3) Every registration-required obligation of the Government shall be in registered form. A book entry obligation is deemed to be in registered form if the right to principal and stated interest on the obligation may be transferred only through a book entry consistent with regulations of the Secretary.

(4) The Secretary shall prescribe regulations necessary to carry out this subsection when there is a nominee.

(h)(1) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations issued under this chapter, and obligations otherwise issued or guaranteed as to principal or interest by the United States. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

(2) Violation of a regulation prescribed under paragraph (1) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3)[1] of the Home Owners' Loan Act of 1933, section 407(e) or 407(f)[1] of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration Board.

(3) Nothing in this subsection shall be construed to affect in any way the powers of such agencies under any other provision of law.

(4) The Secretary shall, prior to adopting regulations under this subsection, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this subsection, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this subsection.

(5) As used in this subsection—

(A) ''depository institution'' has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

(B) ''government securities broker'' has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

(C) ''government securities dealer'' has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

(D) ''appropriate regulatory agency'' has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 944; Pub. L. 97–452, § 1(9), Jan. 12, 1983, 96 Stat. 2468; Pub. L. 99–571, title II, § 201(a), Oct. 28, 1986, 100 Stat. 3222.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3121(a)	31:752(2d par. related to form of bonds).	Sept. 24, 1917, ch. 56, § 1(2d par. related to form of bonds), 40 Stat. 288; restated Apr. 4, 1918, ch. 44, § 1, 40 Stat. 503.
	31:753(a)(related to form of notes, certificates of indebtedness, and Treasury bills).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 18(a)(related to form of notes, certificates of indebtedness, and Treasury bills); added Mar. 3, 1919, ch. 100, § 1, 40 Stat. 1310; restated Feb. 4, 1935, ch. 5, § 4, 49 Stat. 20.
	31:754(a)(related to form of certificates of indebtedness and Treasury bills).	Sept. 24, 1917, ch. 56, § 5(a)(related to form of certificates of indebtedness and Treasury bills, finality), 40 Stat. 290; restated June 17, 1929, ch. 26, 46 Stat. 20.
	31:754b(a)(less last 12 words).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 20; added Jan. 30, 1934, ch. 6, § 14(a)(4), 48 Stat 343; restated Mar. 28, 1942, ch. 205, § 3, 56 Stat. 189.
	31:768(words after semicolon).	Feb. 4, 1910, ch. 25, § 1(words after semicolon), 36 Stat. 192.
3121(b)(1)	31:754b(b).	
3121(b)(2)	31:757c–4.	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 27; added Mar. 17, 1971, Pub. L. 92–5, § 4(b), 85 Stat. 5.
3121(c)	31:754b(c).	
3121(d)	31:739.	R.S. § 3706.
3121(e)	31:754(a)(related to finality).	
	31:754b(a)(last 12 words).	
3121(f)	31:772a.	June 1, 1955, ch. 119, § 2, 69 Stat. 82.

In subsection (a)(1), the word ''combination'' is omitted as surplus.

In subsection (a)(2), the word ''conditions'' is substituted for ''terms and conditions'' because it is inclusive.

In subsection (a)(3), the words ''offering'' and ''interest rate'' are added for clarity.

In subsection (b)(1), the word ''issued'' is substituted for ''authorized'' for clarity. The words ''the Commissioner of Internal Revenue'' are omitted because of the source provisions restated in section 321 of the revised title.

In subsection (b)(2), the words ''In the case of'' are omitted as surplus. The words ''under law'' are substituted for ''under this Act or under any other provision of law'' because they are inclusive. The words ''the terms and conditions of issue'' are omitted as unnecessary. The word ''permit'' is omitted as surplus.

In subsection (c), the word ''conditions'' is substituted for ''regulations and upon such terms'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the United States Code. The word ''agency'' is substituted for ''agency or instrumentality of the United States'' because of section 101 of the revised title and for consistency.

In subsection (d), the word ''conditions'' is substituted for ''terms and under such regulations'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code. The words ''instead of'' are substituted for ''in lieu of'' for clarity.

[1] See References in Text note below.

In subsection (f), the words ''in carrying out'' are substituted for ''in connection with the program for'' to eliminate unnecessary words.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3121(g)	31 App.:757c–5.	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 28; added Sept. 3, 1982, Pub. L. 97–248, § 310(a), 96 Stat. 595.

In subsection (g)(1), before clause (A), the words ''Except as provided in paragraph (2)'' and ''(2) The term 'registration-required obligation' shall not include any obligation if'' are omitted because of the restatement. Clause (C) is added for clarity.

In subsection (g)(2)(B)(i), the words ''territories and'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (g)(3), the words ''(or of any agency or instrumentality thereof)'' are omitted as included in ''Government''. The words ''For purposes of subsection (a)'' are omitted as surplus. The words ''is deemed to be'' are substituted for ''shall be treated as'' for consistency in the revised title and with other titles of the Code.

In subsection (g)(4), the words ''or chain of nominees'' are omitted as included in ''nominee'' and because of 1:1.

REFERENCES IN TEXT

Section 8(b) or (c) of the Federal Deposit Insurance Act, referred to in subsec. (h)(2), is classified to section 1818(b), (c) of Title 12, Banks and Banking.

Section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, referred to in subsec. (h)(2), is classified to section 1464(d)(2), (3) of Title 12, but was amended generally by Pub. L. 101–73, title III, § 301, Aug. 9, 1989, 103 Stat. 282, and no longer relates to issuance of orders. See section 1464(d)(1) of Title 12.

Section 407 of the National Housing Act, referred to in subsec. (h)(2), which was classified to section 1730 of Title 12, was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

Section 206(e) or 206(f) of the Federal Credit Union Act, referred to in subsec. (h)(2), is classified to section 1786(e), (f) of Title 12.

Clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act, referred to in subsec. (h)(5)(A), are classified to cls. (i) through (vi) of section 461(b)(1)(A) of Title 12.

The International Banking Act of 1978, referred to in subsec. (h)(5)(A), is Pub. L. 95–369, Sept. 17, 1978, 92 Stat. 607, which enacted sections 347d, 611a, and 3101 to 3111 of Title 12, amended sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1829b, 1831b, and 1841 of Title 12, and enacted provisions set out as notes under sections 36, 247, 601, 611a, and 3101 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 12 and Tables.

Section 3(a)(43), (44), (34)(G), of the Securities Exchange Act of 1934, referred to in subsec. (h)(5)(B) to (D), is classified to section 78c(a)(43), (44), (34)(G) of Title 15, Commerce and Trade.

AMENDMENTS

1986—Subsec. (h). Pub. L. 99–571 added subsec. (h).

1983—Subsec. (g). Pub. L. 97–452 added subsec. (g).

EFFECTIVE DATE OF 1986 AMENDMENT; PROMULGATION OF REGULATIONS

Amendment by Pub. L. 99–571 effective 270 days after Oct. 28, 1986, except that the Secretary of the Treasury and each appropriate regulatory agency shall publish for notice and public comment within 120 days after Oct. 28, 1986, initial implementing regulations to become effective as temporary regulations 210 days after Oct. 28, 1986, and as final regulations not later than 270 days after Oct. 28, 1986, see title IV of Pub. L. 99–571, set out as an Effective Date note under section 78*o*–5 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–216, § 4(a), (b), Feb. 14, 1984, 98 Stat. 6, 7, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a)(1) Except as provided in paragraph (2) of this subsection, the amendment made by section 1(9) of the Act of January 12, 1983 (Public Law 97–452, 96 Stat. 2468) [amending this section], applies to an obligation issued under section 3102(a) of title 31, United States Code, after September 3, 1982.

''(2) The amendment made by section 1(9) of the Act of January 12, 1983 (Public Law 97–452, 96 Stat. 2468) [amending this section], applies to an obligation issued after June 30, 1983, if—

''(A) interest on the obligation is exempt from tax (decided without regard to the amendments made by section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248, 96 Stat. 595) [enacting section 4701 of Title 26, Internal Revenue Code, section 757c–5 of former Title 31, Money and Finance, amending sections 103, 103A, 163, 165, 312, and 1232 of Title 26, and enacting a provision set out as a note under section 103 of Title 26]) under law (without regard to the identity of the holder); and

''(B) the obligation was not required to be in registered form under the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (26 U.S.C. 1 et seq.) as in effect on September 2, 1982.

''(b) The amendment made by section 1(9) of the Act of January 12, 1983 (Public Law 97–452, 96 Stat. 2468) [amending this section], applies to an obligation issued under section 3103(a) of title 31, United States Code, after December 31, 1982.''

TRANSITIONAL AND SAVINGS PROVISIONS

For transitional and savings provisions of Pub. L. 99–571, see section 301 of Pub. L. 99–571, set out as a note under section 78*o*–5 of Title 15, Commerce and Trade.

COLLECTION OF DEFINITIVE SECURITY AND ANNUAL MAINTENANCE FEES

Pub. L. 103–329, title I, Sept. 30, 1994, 108 Stat. 2386, provided in part: ''That in fiscal year 1995 and thereafter, the Secretary is authorized to collect fees of not less than $46 for each definitive security issue provided to customers, and an annual maintenance fee of not less than $25 for each Treasury Direct Investor Account exceeding $100,000 in par value: *Provided further*, That in fiscal year 1995 and thereafter, of the definitive security fees collected, not to exceed $600,000, and of the annual maintenance fees for Treasury Direct Investor Account collected, not to exceed $2,500,000, shall be retained and used in the current fiscal year for the specific purpose of offsetting costs of Bureau of the Public Debt's marketable security activities, and any fees collected in excess of said amounts shall be deposited as miscellaneous receipts in the Treasury''.

TREASURY AUCTION REFORMS

Pub. L. 103–202, title II, § 202, Dec. 17, 1993, 107 Stat. 2356, provided that:

''(a) ABILITY TO SUBMIT COMPUTER TENDERS IN TREASURY AUCTIONS.—By the end of 1995, any bidder shall be permitted to submit a computer-generated tender to any automated auction system established by the Secretary of the Treasury for the sale upon issuance of securities issued by the Secretary if the bidder—

''(1) meets the minimum creditworthiness standard established by the Secretary; and

''(2) agrees to comply with regulations and procedures applicable to the automated system and the sale upon issuance of securities issued by the Secretary.

''(b) PROHIBITION ON FAVORED PLAYERS.—

''(1) IN GENERAL.—No government securities broker or government securities dealer may receive any advantage, favorable treatment, or other benefit, in connection with the purchase upon issuance of securities issued by the Secretary of the Treasury, which is not generally available to other government securities brokers or government securities dealers under the regulations governing the sale upon issuance of securities issued by the Secretary of the Treasury.

''(2) EXCEPTION.—

''(A) IN GENERAL.—The Secretary of the Treasury may grant an exception to the application of paragraph (1) if—

''(i) the Secretary determines that any advantage, favorable treatment, or other benefit referred to in such paragraph is necessary and appropriate and in the public interest; and

''(ii) the grant of the exception is designed to minimize any anticompetitive effect.

''(B) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress describing any exception granted by the Secretary under subparagraph (A) during the year covered by the report and the basis upon which the exception was granted.

''(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

''(1) OPEN MEETINGS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any meeting of the Treasury Borrowing Advisory Committee of the Public Securities Association (hereafter in this subsection referred to as the 'advisory committee'), or any successor to the advisory committee, shall be open to the public.

''(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any part of any meeting of the advisory committee in which the advisory committee—

''(i) discusses and debates the issues presented to the advisory committee by the Secretary of the Treasury; or

''(ii) makes recommendations to the Secretary.

''(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act [5 U.S.C. App.] for any meeting by the advisory committee shall be made available to the public within 3 business days of the date of the meeting.

''(3) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR DEPARTMENT.—In connection with any meeting of the advisory committee, no officer or employee of the Department of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (c), any member of such committee, or any other person.

''(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), a member of the advisory committee may not discuss any part of any discussion, debate, or recommendation at a meeting of the advisory committee which occurs while such meeting is closed to the public (in accordance with paragraph (1)(B)) with, or disclose the contents of such discussion, debate, or recommendation to, anyone other than—

''(i) another member of the advisory committee who is present at the meeting; or

''(ii) an officer or employee of the Department of the Treasury.

''(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

''(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding; and

''(ii) with respect to any other discussion, debate, or recommendation at the meeting, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2).

''(C) REMOVAL FROM ADVISORY COMMITTEE FOR VIOLATIONS OF THIS PARAGRAPH.—In addition to any penalty or enforcement action to which a person who violates a provision of this paragraph may be subject under any other provision of law, the Secretary of the Treasury shall—

''(i) remove a member of the advisory committee who violates a provision of this paragraph from the advisory committee and permanently bar such person from serving as a member of the advisory committee; and

''(ii) prohibit any director, officer, or employee of the firm of which the member referred to in clause (i) is a director, officer, or employee (at the time the member is removed from the advisory committee) from serving as a member of the advisory committee at any time during the 5-year period beginning on the date of such removal.

''(d) REPORT TO CONGRESS.—

''(1) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress containing the following information with respect to material violations or suspected material violations of regulations of the Secretary relating to auctions and other offerings of securities upon the issuance of such securities by the Secretary:

''(A) The number of inquiries begun by the Secretary during the year covered by the report regarding such material violations or suspected material violations by any participant in the auction system or any director, officer, or employee of any such participant and the number of inquiries regarding any such violations or suspected violations which remained open at the end of such year.

''(B) A brief description of the nature of the violations.

''(C) A brief description of any action taken by the Secretary during such year with respect to any such violation, including any referrals made to the Attorney General, the Securities and Exchange Commission, any other law enforcement agency, and any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]).

''(2) DELAY IN DISCLOSURE OF INFORMATION IN CERTAIN CASES.—The Secretary of the Treasury shall not be required to include in a report under paragraph (1) any information the disclosure of which could jeopardize an investigation by an agency described in paragraph (1)(C) for so long as such disclosure could jeopardize the investigation.''

NOTICE ON TREASURY MODIFICATIONS TO AUCTION PROCESS

Pub. L. 103–202, title II, § 203, Dec. 17, 1993, 107 Stat. 2359, provided that: ''The Secretary of the Treasury shall notify the Congress of any significant modifications to the auction process for issuing United States Treasury obligations at the time such modifications are implemented.''

§ 3122. Banks and trust companies as depositaries

(a) The Secretary of the Treasury may designate incorporated banks and trust companies as depositaries for any part of proceeds of an obligation issued under this chapter. The Secretary may prescribe the conditions under which deposits may be made under this section, including the interest rate on amounts deposited and security requirements.

(b) The Secretary may designate a bank or trust company that is a depositary under sub-

section (a) of this section as a fiscal agent of the United States Government in selling and delivering bonds and certificates of indebtedness issued by the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 945.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3122(a)	31:753(d)(last sentence related to 31:771).	Sept. 24, 1917, ch. 56, 40 Stat. 288, §18(d)(last sentence related to §8); added Mar. 3, 1919, ch. 100, §1, 40 Stat. 1309.
	31:771.	Sept. 24, 1917, ch. 56, §8, 40 Stat. 291; restated Apr. 4, 1918, ch. 44, §5, 40 Stat. 504; Jan. 30, 1934, ch. 6, §14(a)(2), 48 Stat. 343; Aug. 27, 1949, ch. 517, §7(b), 63 Stat. 668; Sept. 21, 1966, Pub. L. 89–597, §2(d), 80 Stat. 824.
3122(b)	31:772.	July 9, 1918, ch. 142, §4, 40 Stat. 845.

In the section, the words ''war-savings certificates'' are omitted because the authority to issue them was ended by section 2(b)(3) of the Public Debt Act of 1941 (ch. 7, 55 Stat. 7).

In subsection (a), the words ''in his discretion'' are omitted as surplus. The word ''obligation'' is substituted for ''bonds and certificates of indebtedness, Treasury bills'' for consistency and to eliminate unnecessary words. The words ''and arising from the payment of internal revenue taxes'' are omitted as superseded by 26:6302(c). The word ''conditions'' is substituted for ''terms and conditions'' because it is inclusive. The words ''upon and'' are omitted as surplus.

In subsection (b), the words ''The Secretary may designate a bank or trust company that is a depositary under subsection (a) of this section'' are substituted for ''Any incorporated bank or trust company designated as a depositary by the Secretary of the Treasury under the authority conferred by section 771 of this title, which gives security for such deposits as, and to amounts, by him prescribed, may, upon and subject to such terms and conditions as the Secretary of the Treasury may prescribe, act'' to eliminate unnecessary words.

§ 3123. Payment of obligations and interest on the public debt

(a) The faith of the United States Government is pledged to pay, in legal tender, principal and interest on the obligations of the Government issued under this chapter.

(b) The Secretary of the Treasury shall pay interest due or accrued on the public debt. As the Secretary considers expedient, the Secretary may pay in advance interest on the public debt by a period of not more than one year, with or without a rebate of interest on the coupons.

(c)(1) The Secretary may issue a bond, note, or certificate of indebtedness authorized under this chapter whose principal and interest are payable in a foreign currency stated in the bond, note, or certificate. The Secretary may dispose of the bonds, notes, and certificates at a price that is at least par value without complying with section 3102(b)–(d) of this title.

(2) In determining the dollar amount of bonds, notes, and certificates of indebtedness that may be issued under this chapter, the dollar equivalent of the amount of bonds, notes, and certificates payable in a foreign currency is determined by the par of the exchange value on the date of issue of the bonds, notes, or certificates as published by the Secretary under section 5151 of this title.

(3) The Secretary may designate depositaries in foreign countries in which any part of the proceeds of bonds, notes, or certificates of indebtedness payable in the foreign currency may be deposited.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 945.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3123(a)	31:731.	R.S. §3693.
	31:753(d)(2d sentence).	Sept. 24, 1917, ch. 56, 40 Stat. 288, §18(d)(2d sentence); added Mar. 3, 1919, ch. 100, §1, 40 Stat. 1310.
	31:768(words before semicolon).	Feb. 4, 1910, ch. 25, §1(words before semicolon), 36 Stat. 192.
3123(b)	31:732.	R.S. §3698.
	31:733(words before semicolon).	R.S. §3699(words before semicolon); restated Jan. 30, 1934, ch. 6, §9, 48 Stat. 341.
3123(c)	31:766.	Sept. 24, 1917, ch. 56, 40 Stat. 288, §16; added Apr. 4, 1918, ch. 44, §6, 40 Stat. 505; Nov. 13, 1966, Pub. L. 89–809, §401, 80 Stat. 1590.

In subsection (a), the words ''legal tender'' are substituted for ''in coin or its equivalent'' in 31:731 and ''gold coin of the present standard of value'' in section 1 of the Act of Feb. 1, 1910, and section 18(d)(2d sentence) of the Second Liberty Bond Act because of section 1 of the Act of June 5, 1933 (ch. 48, 48 Stat. 113). The words ''obligations of the Government'' are substituted for 31:731(1st sentence 18th–last words), ''thereof'' in 31:753(d), and 31:768(1st 17 words) for clarity and consistency and to eliminate unnecessary words. The text of 31:731(last sentence) is omitted as executed.

In subsection (b), the words ''cause to be'', ''out of any money in the Treasury not otherwise appropriated'', ''falling'', ''any portion of'', and ''authorized by law'' in 31:732 are omitted as surplus. The text of 31:733(words between semicolon and colon) is omitted as unnecessary because of chapter 53 of the revised title. The text of 31:733(words after colon) is omitted as superseded by the Bretton Woods Agreement Act (22 U.S.C. 286 et seq.) and sections 6 and 9 of the Act of Oct. 19, 1976 (Pub. L. 94–564, 90 Stat. 2661), repealing 31:449 that provided for parity of the dollar on terms of gold and special drawing rights.

In subsection (c), the word ''currency'' is substituted for ''money or . . . moneys'' for clarity and because of 1:1.

In subsection (c)(1), the words ''but not also in United States gold coin'' and ''in such manner'' are omitted as surplus.

In subsection (c)(2), the words ''dollar'' before ''amount'', and ''value'', are added for clarity. The words ''estimated by the Director of the Mint, and'' are omitted because of the source provisions restated in section 321(c) of the revised title. The word ''published'' is substituted for ''proclaimed'' for clarity.

In subsection (c)(3), the words ''as he may determine'' are omitted as surplus.

§ 3124. Exemption from taxation

(a) Stocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State. The exemption applies to each form of taxation that would require the obligation, the interest on the obligation, or both, to be considered in computing a tax, except—

(1) a nondiscriminatory franchise tax or another nonproperty tax instead of a franchise tax, imposed on a corporation; and

(2) an estate or inheritance tax.

(b) The tax status of interest on obligations and dividends, earnings, or other income from

evidences of ownership issued by the Government or an agency and the tax treatment of gain and loss from the disposition of those obligations and evidences of ownership is decided under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). An obligation that the Federal Housing Administration had agreed, under a contract made before March 1, 1941, to issue at a future date, has the tax exemption privileges provided by the authorizing law at the time of the contract. This subsection does not apply to obligations and evidences of ownership issued by the District of Columbia, a territory or possession of the United States, or a department, agency, instrumentality, or political subdivision of the District, territory, or possession.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 945; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3124(a)	31:742.	R.S. § 3701; Sept. 22, 1959, Pub. L. 86–346, § 105(a), 73 Stat. 622.
3124(b)	31:742a.	Feb. 19, 1941, ch. 7, § 4, 55 Stat. 9; Mar. 28, 1942, ch. 205, § 6, 56 Stat. 190; restated June 25, 1947, ch. 147, 61 Stat. 180; Sept. 22, 1959, Pub. L. 86–346, § 202, 73 Stat. 624.

In subsection (a), before clause (1), the words ''Except as otherwise provided by law, all . . . bonds, Treasury notes, and other'' are omitted as surplus. The words ''political subdivision of a State'' are substituted for ''municipal or local authority'' for clarity and consistency. The word ''applies'' is substituted for ''extends'' for clarity. The words ''directly or indirectly'' are omitted as surplus. In clause (1), the word ''instead'' is substituted for ''in lieu'' for clarity.

In subsection (b), the words ''shares, certificates, stock, or other'' and ''sale or other'' are omitted as surplus. The words ''The tax status of . . . and the tax treatment of . . . is decided under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)'' are substituted for ''shall not have any exemption, as such . . . shall not have any special treatment, as such, except as provided under the Internal Revenue Code of 1954'' for clarity. The words ''on or after March 28, 1942'' and 31:742a(a)(1st sentence words after semicolon related to the United States Maritime Commission) are omitted as executed. The last sentence is substituted for 31:742a(a)(last sentence) for clarity. The words ''any political subdivision thereof'' are omitted as included in ''agency or instrumentality''. The text of 31:742a(b) and (c) is omitted as unnecessary.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

§ 3125. Relief for lost, stolen, destroyed, mutilated, or defaced obligations

(a) In this section, ''obligation'' means a direct obligation of the United States Government issued under law for valuable consideration, including bonds, notes, certificates of indebtedness, Treasury bills, and interim certificates issued for an obligation.

(b) The Secretary of the Treasury may provide relief for the loss, theft, destruction, mutilation, or defacement of an obligation identified by number and description.

(c)(1) An indemnity bond is required as a condition of relief if the obligation is payable to bearer or assigned so as to become payable to bearer and is not proven clearly to have been destroyed. The Secretary may prescribe for the indemnity bond the form, amount, and surety or security requirements.

(2) Relief for interest coupons claimed to have been attached to an obligation may be provided only if the Secretary is satisfied that the coupons have not been paid and are destroyed or will not become the basis of a valid claim against the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 946.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3125(a)	31:738a(d).	July 8, 1937, ch. 444, § 8(a)–(d), 50 Stat. 481; Aug. 10, 1939, ch. 665, § 4, 53 Stat. 1359; Nov. 8, 1945, ch. 453, § 153, 59 Stat. 574; restated May 27, 1971, Pub. L. 92–19, 85 Stat. 74.
3125(b)	31:738a(a).	
3125(c)(1)	31:738a(b).	
3125(c)(2)	31:738a(c).	

In the section, the word ''obligation'' is substituted for ''security'' in the defined term for consistency in the chapter and the revised title and to eliminate using the word ''security'' in 2 different ways in the same section.

In subsection (b), the words ''Under such regulations as he may deem necessary for the administration of this section'' are omitted as unnecessary because of section 321(b) of the revised title.

In subsection (c)(1), the words ''whether before, at, or after maturity'' and ''in effect'' are omitted as surplus.

§ 3126. Losses and relief from liability related to redeeming savings bonds and notes

(a) Under regulations prescribed by the Secretary of the Treasury, a loss resulting from a payment related to redeeming a savings bond or savings note shall be replaced out of the fund established by section 17303(a) of title 40. A Federal reserve bank, a paying agent allowed to make payments in redeeming a bond or note, or an officer or employee of the Department of the Treasury is relieved from liability to the United States Government for the loss when the Secretary decides that the loss did not result from the fault or negligence of the bank, paying agent, officer, or employee. The Secretary shall relieve the bank, agent, officer, or employee from liability when the Secretary decides that written notice of liability or potential liability has not been given to the bank, agent, officer, or employee by the Government within 10 years from the date of the erroneous payment. However, the Secretary may not relieve a paying agent of an assumed unconditional liability to the Government.

(b) Section 17304(c) of title 40 applies to a decision of the Secretary made under this section. A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 946; Pub. L. 107–217, § 3(h)(4), Aug. 21, 2002, 116 Stat. 1299.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3126(a)	31:757c(i)(1st–4th sentences).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 22(i)(1st–6th sentences); added Apr. 11, 1943, ch. 52, § 3, 57 Stat. 63; restated Apr. 3, 1945, ch. 51, § 3, 59 Stat. 47; Sept. 22, 1959, Pub. L. 86–346, § 103, 31 Stat. 622; Oct. 17, 1968, Pub. L. 90–595, § 2, 82 Stat. 1155.
3126(b)	31:757c(i)(5th, 6th sentences).	

In subsection (a), the words ''qualified'' and ''authorized or'' are omitted as surplus. The words ''officer or employee of the Department of the Treasury'' are substituted for ''Treasury of the United States'' and ''Treasurer'' because of the source provisions restated in section 321 of the revised title and for consistency with other titles of the United States Code. The text of 31:757c(i)(3d sentence) is omitted as surplus because of 39:410. The words ''under regulations prescribed by him'' are omitted as unnecessary.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–217, § 3(h)(4)(A), substituted ''section 17303(a) of title 40'' for ''section 2 of the Government Losses in Shipment Act (40 U.S.C. 722)''.

Subsec. (b). Pub. L. 107–217, § 3(h)(4)(B), substituted ''Section 17304(c) of title 40'' for ''Section 3 of the Government Losses in Shipment Act (40 U.S.C. 723) (related to finality of decisions of the Secretary)''.

§ 3127. Credit to officers, employees, and agents for stolen Treasury notes

When an officer, employee, or agent of the United States Government authorized to receive, redeem, or cancel Treasury notes receives or pays a note that was stolen and put in circulation after it had been received or redeemed by an officer, employee, or agent authorized to receive or redeem the note, the Secretary of the Treasury may allow the officer, employee, or agent receiving or paying the stolen note a credit for the amount of the note. The Secretary may allow the credit only if the Secretary is satisfied that the note was received or paid in good faith and in exercising ordinary prudence.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3127	31:740.	R.S. § 3707.

The word ''employee'' is added for consistency with other titles of the United States Code. The words ''of the United States Government'' are added for clarity and consistency. The word ''duly'' is omitted as surplus. The words ''issued by authority of law'' are omitted as unnecessary. The words ''which has subsequently thereto'' are omitted as unnecessary. The words ''is satisfied'' are substituted for ''upon full and satisfactory proof'' to eliminate unnecessary words.

§ 3128. Proof of death to support payment

A finding of death made by an officer or employee of the United States Government authorized by law to make the finding is sufficient proof of death to allow credit in the accounts of a Federal reserve bank or accountable official of the Department of the Treasury in a case involving the transfer, exchange, reissue, redemption, or payment of obligations of the Government, including obligations guaranteed by the Government for which the Secretary of the Treasury acts as transfer agent.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3128	31:757d.	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 23; added Apr. 3, 1945, ch. 51, § 4, 59 Stat. 48.

The words ''officer or employee'' are substituted for ''official or agency'' for clarity and consistency with other titles of the United States Code. The word ''Government'' is added for consistency. The words ''section 1005 of Appendix to title 50'' are omitted because the section was repealed by section 8(a) of the Act of Sept. 6, 1966 (Pub. L. 89–554, 80 Stat. 651). The words ''or by any other'' are omitted as surplus. The words ''or by the Secretary of the Army or the Secretary of the Navy'' are omitted because of 10:ch. 75. The word ''official'' is substituted for ''officer'' for consistency. The words ''bonds and other'' are omitted as surplus. The words ''Secretary of the Treasury'' are substituted for ''Treasury Department'' for accuracy and consistency.

§ 3129. Appropriation to pay expenses

(a) Amounts to pay necessary expenses (including rent) for an issue of obligations authorized under this chapter are appropriated to the Secretary of the Treasury. However, the amount appropriated under this section may not be more than—

(1) .2 percent of the amount of bonds and notes authorized under this chapter;

(2) .1 percent of the amount of certificates of indebtedness authorized under section 3104 of this title; and

(3) .1 percent of the amount of certificates of indebtedness authorized under the First Liberty Bond Act.

(b) An appropriation under this section is available for obligation only through the end of the fiscal year after the fiscal year in which the issue was made. During a period for which an appropriation for a specified amount is made for expenses for which this section makes an appropriation for an unspecified amount, only the appropriation for the specified amount is available for obligation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 947.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3129	31:753(d)(last sentence less related to 31:771).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 18(d)(last sentence less related to § 8); added Mar. 3, 1919, ch. 100, § 1, 40 Stat. 1310.
	31:757c(e).	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 22(e); added Feb. 4, 1935, ch. 5, § 6, 49 Stat. 21; restated Feb. 19, 1941, ch. 7, § 3, 55 Stat. 8.
	31:759.	Apr. 24, 1917, ch. 4, § 8, 40 Stat. 37; May 29, 1928, ch. 901, § 1(20)(related to 40 Stat. 37), 45 Stat. 987.
	31:760.	Sept. 24, 1917, ch. 56, § 10, 40 Stat. 292; May 29, 1928, ch. 901, § 1(20)(related to 40 Stat. 292), 45 Stat. 987; June 1, 1955, ch. 119, § 3, 69 Stat. 82.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	31:761.	June 16, 1921, ch. 23, §1(last par. last sentence under heading ''Office of the Secretary''), 42 Stat. 36.

In subsection (a), before clause (1), the words ''an issue of obligations authorized under this chapter'' are substituted for 31:761(less proviso) to reflect consolidation of the authority for issues of obligations in the revised chapter and for consistency. The text of 31:757c(e) is omitted as unnecessary and superseded by 39:410. The words ''out of any money in the Treasury not otherwise appropriated'' in 31:760 are omitted as unnecessary and for consistency. The words ''to be expended as the Secretary of the Treasury may direct'' in 31:760 are omitted as surplus. In clause (1), the .2 percent limitation on expenses of bonds referred to in 31:760 is made applicable to a ''note'' because of the definition of bond in 31:753(d)(last sentence). The words ''sections 735 to 738, . . . 765, . . . 773 of this title and section 84 of title 12'' in 31:753(d)(last sentence) are omitted because they refer to sections previously repealed (31:735–738, 765) or obsolete (31:773, which was superseded by 39:410) and because 12:84 was amended to express the result required by the source provisions by section 10 of the Act of February 25, 1927 (ch. 191, 44 Stat. 1229).

In subsection (b), the words ''appropriation for the specified amount'' are substituted for ''definite appropriation'', and the words ''appropriation for an unspecified amount'' are substituted for ''indefinite appropriation'', as being more precise. The word ''only'' is substituted for ''and the indefinite appropriation shall not be available for obligation'' to eliminate unnecessary words.

REFERENCES IN TEXT

The First Liberty Bond Act, referred to in subsec. (a)(3), is act Apr. 24, 1917, ch. 4, 40 Stat. 35, which enacted sections 746, 755, 755a, 759, 764, 774, and 804 of former Title 31 and section 462a of Title 12, Banks and Banking, and amended sections 745 and 768 of former Title 31, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1072.

§ 3130. Annual public debt report

(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) the Treasury's public debt activities, and

(2) the operations of the Federal Financing Bank.

(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

(1) A table showing the following information with respect to the total public debt:

(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

(2) A table showing the following information with respect to the net public debt:

(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations, including a discussion of the projections and assumptions with respect to the structure of interest rates for the current fiscal year and for the succeeding 5 fiscal years.

(4) A table showing the following information as of the time the report is submitted and for prior years:

(A) A description of the various categories of the holders of public debt obligations.

(B) The portions of the total public debt held by each of such categories.

(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

(e) DEFINITIONS.—For purposes of this section—

(1) CURRENT FISCAL YEAR.—The term ''current fiscal year'' means the fiscal year ending in the calendar year in which the report is submitted.

(2) TOTAL PUBLIC DEBT.—The term ''total public debt'' means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

(3) NET PUBLIC DEBT.—The term ''net public debt'' means the portion of the total public debt which is held by the public.

(4) DEBT TO GDP RATIO.—The term ''debt to GDP ratio'' means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

(5) INTEREST COST TO OUTLAY RATIO.—The term ''interest cost to outlay ratio'' means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year.

(Added Pub. L. 103–202, title II, § 201(a), Dec. 17, 1993, 107 Stat. 2355.)

CHAPTER 33—DEPOSITING, KEEPING, AND PAYING MONEY

SUBCHAPTER I—DEPOSITS AND DEPOSITARIES

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3302. Custodians of money.
3303. Designation of depositaries.
3304. Transfers of public money from depositaries.
3305. Audits of depositaries.

SUBCHAPTER II—PAYMENTS

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3333. Relief for payments made without negligence.
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3341. Sale of Government warrants, checks, drafts, and obligations.
3342. Check cashing and exchange transactions.
3343. Check forgery insurance fund.

AMENDMENTS

1994—Pub. L. 103–356, title IV, § 402(b), Oct. 13, 1994, 108 Stat. 3413, substituted ''Required direct deposit'' for ''Checks payable to financial organizations designated by Government officers and employees'' in item 3332.

Pub. L. 103–272, § 4(f)(1)(G), July 5, 1994, 108 Stat. 1362, added item 3334.

1991—Pub. L. 102–54, § 13(*l*)(4)(B), June 13, 1991, 105 Stat. 277, substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'' in item 3330.

1990—Pub. L. 101–453, § 4(b), Oct. 24, 1990, 104 Stat. 1059, added item 3335.

[1] Editorially supplied. Section 3336 added by Pub. L. 104–208 without corresponding amendment of chapter analysis.

SUBCHAPTER I—DEPOSITS AND DEPOSITARIES

§ 3301. General duties of the Secretary of the Treasury

(a) The Secretary of the Treasury shall—

(1) receive and keep public money;

(2) take receipts for money paid out by the Secretary;

(3) give receipts for money deposited in the Treasury;

(4) endorse warrants for receipts for money deposited in the Treasury;

(5) submit the accounts of the Secretary to the Comptroller General every 3 months, or more often if required by the Comptroller General; and

(6) submit to inspection at any time by the Comptroller General of money in the possession of the Secretary.

(b) Except as provided in section 3326 of this title, an acknowledgment for money deposited in the Treasury is not valid if the Secretary does not endorse a warrant as required by subsection (a)(4) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 948.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3301	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:147(less disbursement).	R.S. § 305(less disbursement).

In subsection (a), the words ''public money'' are substituted for ''the moneys of the United States'' to eliminate unnecessary words and for consistency. The words ''Secretary of the Treasury'' are substituted for ''Treasurer'' because of the source provisions restated in section 321(c) of the revised title. In clauses (3) and (4), the words ''deposited in the Treasury'' are substituted for ''received by him'' for clarity and consistency in the revised title. In clause (4), the words ''signed by the Secretary of the Treasury'' are omitted as surplus. In clauses (5) and (6), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. In clause (5), the word ''submit'' is substituted for ''render'' for consistency. The words ''and shall transmit a copy thereof, when settled, to the Secretary of the Treasury'' are omitted because of the restatement. In clause (6), the words ''Secretary of the Treasury . . . or either of them'' are omitted because of the restatement. The word ''public'' is added for consistency.

In subsection (b), the words ''Except as provided in section 3326 of this title'' are added for clarity. The words ''endorse . . . as required by subsection (a)(4) of this section'' are substituted for ''so signed'' for clarity and consistency.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–433, § 1, Nov. 6, 2000, 114 Stat. 1910, provided that: ''This Act [amending section 3327 of this title and enacting provisions set out as a note under section 3327 of this title] may be cited as the 'Social Security Number Confidentiality Act of 2000'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–356, § 1(a), Oct. 13, 1994, 108 Stat. 3410, provided that: ''This Act [amending sections 331, 3332, 3515,

and 3521 of this title, section 31 of Title 2, The Congress, section 104 of Title 3, The President, sections 5318 and 6304 of Title 5, Government Organization and Employees, and section 461 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under this section, sections 501 and 1113 of this title, section 31 of Title 2, and section 6304 of Title 5] may be cited as the 'Government Management Reform Act of 1994'.''

Pub. L. 103–356, title IV, § 401, Oct. 13, 1994, 108 Stat. 3412, provided that: ''This title [amending sections 331, 3332, 3515, and 3521 of this title and enacting provisions set out as notes under section 501 of this title] may be cited as the 'Federal Financial Management Act of 1994'.''

§ 3302. Custodians of money

(a) Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without—

(1) lending the money;
(2) using the money;
(3) depositing the money in a bank; and
(4) exchanging the money for other amounts.

(b) Except as provided in section 3718(b)[1] of this title, an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

(c)(1) A person having custody or possession of public money, including a disbursing official having public money not for current expenditure, shall deposit the money without delay in the Treasury or with a depositary designated by the Secretary of the Treasury under law. Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money. The Secretary or a depositary receiving a deposit shall issue duplicate receipts for the money deposited. The original receipt is for the Secretary and the duplicate is for the custodian.

(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).

(d) An official or agent not complying with subsection (b) of this section may be removed from office. The official or agent may be required to forfeit to the Government any part of the money held by the official or agent and to which the official or agent may be entitled.

(e) An official or agent of the Government having custody or possession of public money shall keep an accurate entry of each amount of public money received, transferred, and paid.

(f) When authorized by the Secretary, an official or agent of the Government having custody or possession of public money, or performing other fiscal agent services, may be allowed necessary expenses to collect, keep, transfer, and pay out public money and to perform those services. However, money appropriated for those expenses may not be used to employ or pay officers and employees of the Government.

[1] See References in Text note below.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 948; Pub. L. 97–452, § 1(10), Jan. 12, 1983, 96 Stat. 2468; Pub. L. 98–369, div. B, title VI, § 2652(b)(1), July 18, 1984, 98 Stat. 1152; Pub. L. 103–272, § 4(f)(1)(H), July 5, 1994, 108 Stat. 1362; Pub. L. 103–429, § 7(a)(3)(A), Oct. 31, 1994, 108 Stat. 4388.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3302(a)	31:521.	R.S. § 3639; June 6, 1972, Pub. L. 92–310, § 231(r), 86 Stat. 210.
3302(b)	31:484.	R.S. § 3617.
3302(c)	31:495.	R.S. § 3621; restated May 28, 1896, ch. 252, § 5, 29 Stat. 179.
3302(d)	31:490.	R.S. § 3619.
3302(e)	31:525.	R.S. § 3643.
3302(f)	31:545.	R.S. § 3653; Aug. 7, 1882, ch. 433, § 1(2d complete par. on p. 312), 22 Stat. 312; Jan. 22, 1925, ch. 87(2d par. under heading ''Division of Bookkeeping and Warrants''), 43 Stat. 767.
	31:1023(b).	June 1, 1955, ch. 119, § 1(b), 69 Stat. 82.

In subsection (a), before clause (1), the words ''Except as provided by another law'' are substituted for ''than as specially allowed by law'' in 31:521 for clarity and consistency. The words ''an official or agent of the United States Government having custody or possession of public money'' are substituted for ''The Treasurer of the United States, all assistant treasurers [subsequently changed to 'all depositaries designated in accordance with section 476 of this title' because of 31:476], and those performing the duties of assistant treasurer, all collectors of the customs, all surveyors of the customs, acting also as collectors, all receivers of public moneys at the several land offices, all postmasters, and all public officers of whatsoever character . . . all the public money collected by them, or otherwise at any time placed in their possession and custody'' to eliminate unnecessary words and for consistency in the revised title. The words ''till the same is ordered, by the proper department or officer of the Government, to be transferred or paid out'' are omitted as superseded by source provisions restated in the chapter. The text of 31:521(words after semicolon) is omitted as unnecessary because of the restatement.

In subsection (b), the words ''any abatement or'' are omitted as surplus. The words ''for any charge or claim'' are substituted for ''on account of salary, fees, costs, charges, expenses, or claim of any description whatever'', and the words ''shall deposit the money in the Treasury'' are substituted for ''The gross amount of all moneys received from whatever source for the use of the United States, . . . shall be paid . . . into the Treasury'', to eliminate unnecessary words. The words ''except as otherwise provided in section 487 of this title'' are omitted because 31:487 is obsolete. The text of 31:484(last sentence) is omitted as superseded by title 39.

In subsection (c), the word ''Secretary'' is substituted for ''Treasurer'' because of the source provisions restated in section 321(c) of the revised title. The balance of subsection (c) is substituted for 31:495(words before proviso) for clarity and consistency. The text of 31:495(proviso) is omitted as superseded by title 39.

Subsection (d) is substituted for 31:490 for clarity and consistency.

In subsection (e), the words ''official or agent having custody or possession of public money'' are substituted for ''persons charged by law with the safekeeping, transfer, and disbursements of the public moneys'' for consistency and to eliminate unnecessary words. The words ''other than those connected with the United States Postal Service'' are omitted as superseded by title 39.

In subsection (f), the word ''expressly'' is omitted as surplus. The words ''official or agent having custody or

possession'' are substituted for 31:545(words before 21st comma) for consistency and to eliminate unnecessary words. The words ''additional . . . fireproof of chests or vaults or other necessary expenses of'' are omitted as surplus. The words ''employ or pay officers and employees of the Government'' are substituted for ''clerical services or payment of employees of any nature or grade'' for consistency in the revised title and with other titles of the United States Code.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3302(b)	31 App.:484.	Oct. 25, 1982, Pub. L. 97–365, § 13(a), 96 Stat. 1757.

The reference to ''952(g)(2)'' in 31 App.:484 is incorrect and should be ''952(f)(2)''.

1984 ACT (PUB. L. 98–216)

Section 3618 (1st sentence related to non-military deposits) of the Revised Statutes inadvertently was omitted as a source credit for 31:3302. Table 2A of H. Rep. 97–651 (p. 298) states that the sentence was omitted as superseded by various sections of title 10. Title 10 supersedes the sentence only as it applies to military deposits. However, the language of section 3618 (1st sentence related to non-military deposits) is subsumed in the broader language of section 3617 of the Revised Statutes, the source credit for 31:3302(b). Therefore, while section 3618 (1st sentence related to non-military deposits) should be a source credit for 31:3302(b), it is not necessary that the language of the sentence be restated.

REFERENCES IN TEXT

Section 3718(b) of this title, referred to in subsec. (b), was redesignated section 3718(d) of this title by Pub. L. 99–578, § 1(1), Oct. 28, 1986, 100 Stat. 3305.

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103–272, as amended by Pub. L. 103–429, substituted a period for a comma at end of second sentence.

1984—Subsec. (c). Pub. L. 98–369 designated existing provisions as par. (1), struck out '', but not later than the 30th day after the custodian receives the money,'' after ''without delay'' in first sentence, inserted after first sentence ''Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money,'', and added par. (2).

1983—Subsec. (b). Pub. L. 97–452 inserted exception relating to section 3718(b) of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103–429 provided that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2652(b)(2) of Pub. L. 98–369 provided that: ''The amendments made by this subsection [amending this section] shall become effective January 1, 1985.''

§ 3303. Designation of depositaries

(a) The Secretary of the Treasury designates depositaries of money as provided in this section and under other law.

(b) When necessary to carry out the business of the United States Government and under conditions the Secretary decides are necessary, the Secretary may designate depositaries in foreign countries and in territories and possessions of the United States to receive deposits of public money. The Secretary shall give preference to United States financial institutions the Secretary decides are safe and able to give the service required.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 949.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3303(a)	(no source).	
3303(b)	31:473.	June 19, 1922, ch. 228, 42 Stat. 662.

Subsection (a) is added to inform the reader that there are numerous other laws providing for the designation of depositaries. These other laws are scattered throughout the titles of the United States Code.

In subsection (b), the words ''carry out'' are substituted for ''transaction'' for consistency. The words ''terms and . . . as to security and otherwise'' and ''of public moneys'' are omitted as surplus. The words ''territories and possessions of the United States'' are substituted for ''Territories and insular possessions of the United States'' for consistency. The words ''to receive deposits of public money'' are added for clarity.

§ 3304. Transfers of public money from depositaries

The Secretary of the Treasury may transfer public money in the possession of a depositary—

(1) to the Treasury; and

(2) if the Secretary believes the safety of the public money and convenience require it, to another depositary.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 949.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3304	31:522.	R.S. § 3640.

In the section, before clause (1), the words ''except as provided in section 523 of this title'' are omitted as superseded by title 39. The words ''of the United States, to the credit of the Treasurer'' are omitted as unnecessary. In clause (2), the words ''if the Secretary believes the safety of the public money and convenience require it'' are substituted for ''as the safety of the public moneys and the convenience of the public service shall seem to him to require'' for clarity and to eliminate unnecessary words.

§ 3305. Audits of depositaries

The Secretary of the Treasury, or an officer, employee, or agent designated by the Secretary, may audit a depositary of public money. For uniformity and accuracy in accounts and safety of public money, an individual conducting an audit shall audit a depositary's—

(1) books;

(2) accounts;

(3) returns; and

(4) public money on hand and the way the money is kept.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 949.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3305	31:548.	R.S. § 3649.

In the section, before clause (1), the words ''or an officer, employee, or agent designated by the Secretary''

are substituted for ''and for that purpose to appoint special agents, as occasion may require'' for clarity and consistency. The words ''may audit a depositary of public money'' are substituted for ''is authorized to cause examinations to be made of the books, accounts and money on hand, of the several depositaries'' to eliminate unnecessary words and for consistency. The words ''with such compensation, not exceeding $6 per day and traveling expenses, as he may think reasonable, to be fixed and declared at the time of each appointment'' are omitted as superseded by 5:3109 and ch. 57. The words ''be instructed to'' and ''as well'' are omitted as surplus.

SUBCHAPTER II—PAYMENTS

§ 3321. Disbursing authority in the executive branch

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

(1) United States Marshal's Office.

(2) The Department of Defense.

(3) The Department of Homeland Security.[1] (with respect to public money available for expenditure by the Coast Guard when it is not operating as a service in the Navy).

(d) On request of the Secretary and with the approval of the head of an executive agency referred to in subsection (c) of this section, facilities of the agency may be used to assist in disbursing public money available for expenditure by another executive agency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 949; Pub. L. 103–355, title III, § 3067, Oct. 13, 1994, 108 Stat. 3337; Pub. L. 104–106, div. A, title IX, § 913(a)(1), Feb. 10, 1996, 110 Stat. 410; Pub. L. 104–201, div. A, title X, § 1009(a)(1), Sept. 23, 1996, 110 Stat. 2633; Pub. L. 109–241, title IX, § 902(b)(1), July 11, 2006, 120 Stat. 566.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3321(a), (b).	5:901(note).	Exec. Order No. 6166, June 10, 1933, § 4.
3321(c), (d).	31:492–1.	R.S. § 176; Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 632; June 6, 1972, Pub. L. 92–310, § 231(a), 86 Stat. 209.
	5 App.	Reorg. Plan No. 4 of 1940, eff. June 30, 1940, §§ 3, 4, 54 Stat. 1234.
		Exec. Order No. 6728, May 29, 1934.

The section uses the defined term ''executive agency'' in section 102 of the revised title because the source provisions of this section are from a reorganization plan and executive orders that apply only to departments, agencies, and instrumentalities of the executive branch of the United States Government.

In subsections (a) and (b), the words ''Secretary of the Treasury'' and ''Secretary'' are substituted for references to the Division of Disbursement and a Chief Disbursing Officer because of the source provisions restated in section 321(c) of the revised title. The words ''public money'' are substituted for ''moneys of the United States'' for consistency with the other source provisions restated in the section and for consistency in the chapter.

Subsection (a) is substituted for section 4(1st paragraph) of Executive Order No. 6166 to omit executed words.

In subsection (b), the words ''may require'' and ''as the interests of'' are omitted as unnecessary. The words ''to establish local offices'' are omitted because of the authority of the Secretary of the Treasury as the head of the Department of the Treasury and the authority of the Secretary under section 321 of the revised title. The text of section 4(last paragraph) is omitted as superseded by section 3325 of the revised title.

In subsection (c), the text of 31:492–1(1st sentence) is applied only to the listed agencies because of subsection (a) and Executive Order 6728. The text of 31:492–1(last sentence) is omitted as superseded by section 2 of Reorganization Plan No. 18 of 1950 (eff. July 1, 1950, 64 Stat. 1270) and by 40:490. In clause (1), the words after ''disbursement by United States marshals'' and before the last proviso in section 3 of Reorganization Plan No. 4 of 1940 (eff. June 30, 1940, 54 Stat. 1234) are omitted as unnecessary because of 28:571 and sections 3512(a)–(c) and 3513(a) of the revised title. In clause (2), the word ''pay'' is substituted for ''salaries'' in Executive Order No. 6728 for consistency in the revised title and with other titles of the United States Code. The words ''including the Marine Corps'' are omitted as being included in ''military departments''. The words ''Panama Canal'' are omitted because of the Panama Canal Treaty of 1977. The first proviso is omitted as unnecessary because of sections 3512 and 3513 of the revised title. Section 4 of Reorganization Plan No. 4 of 1940 is omitted because (1) the Post Office Department was abolished by the 1970 restatement of title 39, with all authority of the former Postmaster General being placed in the new United States Postal Service, (2) under 39:410 and 3604, the Postal Service and the Postal Rate Commission were exempt from all provisions of law related to budget and funds, and (3) the Postal Savings System and its Board of Trustees were abolished under section 5 of the Act of March 28, 1942 (ch. 205, 56 Stat. 189).

AMENDMENTS

2006—Subsec. (c)(3). Pub. L. 109–241 substituted ''Department of Homeland Security.'' for ''Department of Transportation''.

1996—Subsec. (c)(2). Pub. L. 104–106 added par. (2) and struck out former par. (2) which read as follows: ''The Department of Defense (except for disbursements for departmental pay and expenses in the District of Columbia).''

Subsec. (c)(3). Pub. L. 104–201 added par. (3).

1994—Subsec. (c)(2). Pub. L. 103–355 substituted ''The Department of Defense'' for ''military departments of the Department of Defense''.

IMPROPER PAYMENTS

Pub. L. 107–300, Nov. 26, 2002, 116 Stat. 2350, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Improper Payments Information Act of 2002'.

''SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

''(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and iden-

[1] So in original. The period probably should not appear.

tify all such programs and activities that may be susceptible to significant improper payments.

''(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

''(1) estimate the annual amount of improper payments; and

''(2) submit those estimates to Congress before March 31 of the following applicable year, with all agencies using the same method of reporting, as determined by the Director of the Office of Management and Budget.

''(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed $10,000,000, the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

''(1) a discussion of the causes of the improper payments identified, actions taken to correct those causes, and results of the actions taken to address those causes;

''(2) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

''(3) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

''(4) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

''(d) DEFINITIONS.—For the purposes of this section:

''(1) AGENCY.—The term 'agency' means an executive agency, as that term is defined in section 102 of title 31, United States Code.

''(2) IMPROPER PAYMENT.—The term 'improper payment'—

''(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

''(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

''(3) PAYMENT.—The term 'payment' means any payment (including a commitment for future payment, such as a loan guarantee) that is—

''(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

''(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

''(e) APPLICATION.—This section—

''(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

''(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

''(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Not later than 6 months after the date of enactment of this Act [Nov. 26, 2002], the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.''

§ 3322. Disbursing officials

(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. Except as provided in section 3716 and section 3720A of this title and subsection (b) of this section, a disbursing official shall—

(1) deposit public money as required by section 3302 of this title; and

(2) draw public money from the Treasury or a depositary only—

(A) as necessary to make payments; and

(B) payable to persons to whom payment is to be made.

(b) In a place without a depositary, the Secretary, on deciding it is essential to the public interest, may authorize specially in writing that public money be—

(1) deposited in any other public depositary; or

(2) kept in another manner under regulations the Secretary decides are the safest and most effective in making a payment to a public creditor easier.

(c) A disbursing official is not liable for an overpayment provided under a United States Government bill of lading or transportation request when the overpayment is caused by the—

(1) use of improper transportation rates or classifications if the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government; or

(2) failure to deduct the proper amount under—

(A) a land grant law; or

(B) an equalization or other agreement.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 950; Pub. L. 98–216, § 1(3), Feb. 14, 1984, 98 Stat. 3; Pub. L. 104–134, title III, § 31001(g)(1)(A), Apr. 26, 1996, 110 Stat. 1321–363; Pub. L. 105–264, § 3(a)(1), Oct. 19, 1998, 112 Stat. 2352.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3322(a)	31:492(a).	R.S. § 3620(a); Feb. 27, 1877, ch. 69(7th complete par. on p. 249), 19 Stat. 249; Aug. 28, 1965, Pub. L. 89–145, § 1(1), 79 Stat. 582.
3322(b)	31:82g(related to disbursing officers).	June 1, 1942, ch. 320(related to disbursing officers), 56 Stat. 306.

In the section, the words ''disbursing official'' are substituted for ''disbursing officer'' for consistency in the revised title.

In subsection (a), before clause (1), the words ''Secretary of the Treasury'' are substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321(c) of the revised title. The words ''or an assistant treasurer of the United States'' in section 3620(a) of the Revised Statutes are omitted as obsolete because of the 1st–4th pars. under the heading ''Independent Treasury'' in the Act of May 29, 1920 (ch. 214, 41 Stat. 654). In clause (1), the words ''as required by section 3302 of this title'' are substituted for ''with the Treasurer or some one of the assistant treasurers of the United States (subsequently changed to 'or with one of the depositaries of the United States mentioned in section 476 of this title')'' because of 31:476. In clause (2), the words ''in pursuance of law'' are omitted as surplus. The text of 31:492(a)(last sentence) is omitted because of section 3323(a) of the revised title.

In subsection (b), before clause (1), the words ''On and after June 1, 1942'' are omitted as executed. The words ''of the United States'' are omitted as unnecessary. The words ''for transportation'' are omitted as surplus.

1984 ACT

This is necessary because section 3620(a) (last sentence) of the Revised Statutes inadvertently was omitted from the codification of title 31 by section 1 of the Act of September 13, 1982 (Pub. L. 97–258, 96 Stat. 877).

In subsection (a), before clause (1), the words ''Except as provided in subsection (b) of this section'' are added because of the restatement.

In subsection (b), before clause (1), the word ''however'' is omitted as surplus. The words ''treasurer or'' are omitted as obsolete because of the 1st–4th pars. under the heading ''Independent Treasury'' in the Act of May 29, 1920 (ch. 214, 41 Stat. 654). In clause (2), the words ''rules and'' are omitted as surplus.

AMENDMENTS

1998—Subsec. (c)(1). Pub. L. 105–264 inserted ''if the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government'' after ''classifications''.

1996—Subsec. (a). Pub. L. 104–134 inserted ''section 3716 and section 3720A of this title and'' after ''Except as provided in'' in introductory provisions.

1984—Subsec. (a). Pub. L. 98–216 amended subsec. (a) generally, substituting ''Except as provided in subsection (b) of this section, a'' for ''A'' in second sentence.

Subsecs. (b), (c). Pub. L. 98–216 added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–264, § 3(b), Oct. 19, 1998, 112 Stat. 2354, provided that: ''The amendments made by this section [amending this section and sections 3528 and 3726 of this title] shall become effective 18 months after the date of the enactment of this Act [Oct. 19, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 31001(a)(2)(A) of Pub. L. 104–134 provided that: ''The provisions of this section [enacting sections 3720B to 3720E of this title, amending this section, sections 3325, 3331, 3332, 3343, 3701, 3711, 3712, 3716 to 3719, 3720A, and 7701 of this title, section 5514 of Title 5, Government Organization and Employees, sections 6050P, 6103, and 6402 of Title 26, Internal Revenue Code, and sections 404 and 664 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 3701, 3711, 3716, and 3719 of this title and section 2461 of Title 28, Judiciary and Judicial Procedure, amending provisions set out as notes under section 7701 of this title and section 2461 of Title 28, and repealing provisions set out as notes under section 3718 of this title] and the amendments made by this section shall take effect on the date of the enactment of this Act [Apr. 26, 1996].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–216 effective Sept. 13, 1982, see section 4(c) of Pub. L. 98–216, set out as a note under section 490 of Title 18, Crimes and Criminal Procedure.

§ 3323. Warrants

(a) Except as provided in section 3326 of this title, the Secretary of the Treasury may pay out money only against a warrant. A warrant shall be—

(1) authorized by law;

(2) signed by the Secretary; and

(3) countersigned by the Comptroller General.

(b)(1) A disbursing official shall send to the Secretary with a warrant a certificate under section 3526 of this title, or a requisition for an advance. The certificate or requisition shall state the appropriation to which the payment is to be charged.

(2) The Secretary shall return the certificate or requisition to the Comptroller General with the date and amount endorsed on the certificate or requisition.

(c) A requisition for the payment of money on an audited account or for depositing money in the Treasury is not required.

(d) The Secretary and the Comptroller General shall charge to the appropriate appropriation in their books any money paid by a warrant.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 950.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3323(a)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:76(2d sentence words before 3d comma).	July 31, 1894, ch. 174, § 11(2d, 3d sentences), 28 Stat. 209.
	31:147(related to disbursement).	R.S. § 305(related to disbursement); July 31, 1894, ch. 174, § 11(last sentence related to § 305), 28 Stat. 209.
3323(b)	31:76(2d sentence words after 3d comma).	
3323(c)	31:76(3d sentence).	
3323(d)	31:44(1st sentence).	
	31:77.	R.S. § 3675.

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

Subsection (a) is substituted for 31:76(2d sentence words before 3d comma) and 147(related to disbursement) to eliminate unnecessary words and for clarity and consistency.

In subsection (b), the word ''Secretary'' is substituted for ''Treasurer'' because of the source provisions restated in section 321 of the revised title.

In subsection (b)(1), the words ''instead of being specified on the warrant'' are omitted as surplus. The reference to ''section 3526 of this title'' is used because section 72, referred to in 31:76, has been omitted from the restatement superseded by 31:82i and 31:82i is restated in section 3526.

In subsection (c), the word ''depositing'' is substituted for ''covering'' for clarity and consistency.

§ 3324. Advances

(a) Except as provided in this section, a payment under a contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered.

(b) An advance of public money may be made only if it is authorized by—

(1) a specific appropriation or other law; or

(2) the President to be made to—

(A) a disbursing official if the President decides the advance is necessary to carry out—

(i) the duties of the official promptly and faithfully; and

(ii) an obligation of the Government; or

(B) an individual serving in the armed forces at a distant station if the President decides the advance is necessary to disburse regularly pay and allowances.

(c) Before the Secretary of the Treasury acts on a requisition for an advance, the Comptroller General shall act on the requisition under section 3522 of this title. The Comptroller General does not countersign a requisition for an advance.

(d) The head of an agency may pay in advance from appropriations available for the purpose—

(1) to the Secretary of the Army, charges for messages sent by the Secretary of the Army for the head of the agency, including charges for—

(A) payment of tolls of commercial carriers;

(B) leasing facilities for sending messages; and

(C) installing and maintaining facilities for sending messages; and

(2) charges for a publication printed or recorded in any way for the auditory or visual use of the agency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 950.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3324(a)	31:529(2d sentence).	R.S. §3648; Aug. 2, 1946, ch. 744, §11, 60 Stat. 809.
3324(b)	31:529(1st, 3d, last sentences).	
3324(c)	31:44(1st sentence).	June 10, 1921, ch. 18, §304(1st par. 1st sentence), 42 Stat. 24.
	31:76(1st, last sentences).	July 31, 1894, ch. 174, §11(1st, 4th sentences), 28 Stat. 209.
3324(d)	31:530a.	June 12, 1930, ch. 470, §1, 46 Stat. 580; July 20, 1961, Pub. L. 87–91, §1, 75 Stat. 211.
	31:530b.	June 12, 1930, ch. 470, 46 Stat. 580, §2; added Dec. 22, 1974, Pub. L. 93–534, 88 Stat. 1731.
	31:686–2.	Apr. 15, 1926, ch. 146, §101(proviso on p. 267), 44 Stat. 267.

In subsection (a), the words ''Except as provided in this section'' are added for clarity. The words ''already provided'' and ''already delivered'' are substituted for ''rendered . . . delivered previously to such payment'' for clarity and consistency.

In subsection (b), before clause (1), the words ''in any case'' and ''It shall, however, be lawful under the special direction of'' are omitted as surplus. In clause (2)(A)(i), the word ''official'' is substituted for ''officer'' for consistency in the revised title. The words ''of the Government'' are omitted as surplus. Clause (2)(A)(ii) is substituted for ''the public engagements'' for clarity. In clause (2)(B), the word ''individual'' is substituted for ''persons'' for consistency. The words ''armed forces'' are substituted for ''military and naval service'' for consistency with title 10. The words ''and proper'' are omitted as unnecessary. The words ''disburse regularly pay and allowances'' are substituted for ''discharge of the pay and emoluments to which they may be entitled cannot be regularly effected'' to eliminate unnecessary words, for clarity, and for consistency with title 37.

In subsection (c), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (d), before clause (1), the words ''On and after April 15, 1926'' in 31:686–2 are omitted as executed. The word ''agency'' is substituted for ''department or establishment'' because of section 101 of the revised title and for consistency. The words ''may pay in advance from appropriations available for the purpose'' are substituted for ''may transfer in advance . . . such amounts as may be necessary to defray the expense of'' for clarity and consistency. In clause (1), the words ''Secretary of the Army'' are substituted for ''Signal Corps of the Army'' because of 10:3012. The title of Secretary of War was changed to Secretary of the Army, and the Department of War was designated the Department of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). Clause (2) is substituted for 31:530a and 530b to eliminate unnecessary words. The words ''or the municipal government of the District of Columbia'' are omitted because of sections 441–445 and 736 of the Act of December 24, 1973 (Pub. L. 93–198, 87 Stat. 798, 823).

EXEMPTION OF FUNCTIONS

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

INTERNATIONAL REFUGEE ORGANIZATION

Funds available for expenditure without regard to this section, see section 289c of Title 22, Foreign Relations and Intercourse.

§ 3325. Vouchers

(a) A disbursing official in the executive branch of the United States Government shall—

(1) disburse money only as provided by a voucher certified by—

(A) the head of the executive agency concerned; or

(B) an officer or employee of the executive agency having written authorization from the head of the agency to certify vouchers;

(2) examine a voucher if necessary to decide if it is—

(A) in proper form;

(B) certified and approved; and

(C) computed correctly on the facts certified; and

(3) except for the correctness of computations on a voucher or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title,,[1] be held accountable for carrying out clauses (1) and (2) of this subsection.

(b) In addition to officers and employees referred to in subsection (a)(1)(B) of this section as having authorization to certify vouchers, members of the armed forces may certify vouchers when authorized, in writing, by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Homeland Security.

(c) On request, the Secretary of the Treasury may provide to the appropriate officer or employee of the United States Government a list of persons receiving periodic payments from the Government. When certified and in proper form, the list may be used as a voucher on which the Secretary may disburse money.

(d) The head of an executive agency or an officer or employee of an executive agency referred to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identifying number of each person to whom payment may be made under the voucher.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 951; Pub. L. 104–106, div. A, title IX, §913(b), Feb. 10, 1996,

[1] So in original.

110 Stat. 411; Pub. L. 104–134, title III, § 31001(g)(1)(B), (y), Apr. 26, 1996, 110 Stat. 1321–363, 1321–378; Pub. L. 104–201, div. A, title X, § 1009(b), Sept. 23, 1996, 110 Stat. 2634; Pub. L. 109–241, title IX, § 902(b)(2), July 11, 2006, 120 Stat. 566.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3325(a)	31:82b.	Dec. 29, 1941, ch. 641, §§1, 4(related to § 1), 55 Stat. 875, 876.
	31:82f(related to disbursing officers).	Apr. 28, 1942, ch. 247, § 301(1st par. proviso under heading ''Bureau of Accounts'' related to disbursing officers), 56 Stat. 244.
3325(b)	31:82e(related to 31:82b).	
3325(c)	31:82a.	May 14, 1937, ch. 180, § 1(2d par. last proviso on p. 140), 50 Stat. 140.

In subsection (a), before clause (1), the words ''Notwithstanding the provisions of section 82 of this title, and section 4 of Executive Order Numbered 6166, dated June 10, 1933'' in 31:82b are omitted as unnecessary. In clause (1), the word ''duly'' is omitted as surplus. In clause (1)(A) and (B), the words ''executive agency'' are substituted for ''department, establishment or agency concerned'' because of section 102 of the revised title and for consistency. In clause (2)(C), the words ''basis of the'' are omitted as surplus. In clause (3), the words ''for carrying out clauses (1) and (2) of this subsection'' are substituted for ''accordingly'' for clarity.

In subsection (b), the words ''under the jurisdiction'' are omitted as surplus. The words ''a military department of the Department of Defense'' are substituted for ''the Department of the Army, the Navy Department (including the Marine Corps)'' for consistency with title 10. The words ''and the Panama Canal'' (subsequently changed to ''the Canal Zone Government'' by section 2(a)(1) of the Act of September 26, 1950 (ch. 1049, 64 Stat. 1038)) are omitted because of 22:ch. 51. The word ''pay'' is substituted for ''salaries'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c), the words ''On and after May 14, 1937'' are omitted as executed. The words ''Secretary of the Treasury'' are substituted for ''Division of Disbursement, Treasury Department'' in section 1(last proviso of 2d par. on p. 140) of the Act of May 14, 1937, because of section 1(a) of Reorganization Plan No. III of 1940 (eff. June 30, 1940, 54 Stat. 1231) and section 321(c) of the revised title. The word ''appropriate'' is added for clarity. The words ''officer or employee of the United States Government'' are substituted for ''administrative officers'' for consistency in the revised title and with other titles of the United States Code. The words ''addressographed or stenciled'' and ''administratively revised and'' are omitted as surplus. The words ''disburse public money'' are substituted for ''make payment'' for consistency.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1996—Subsec. (a)(3). Pub. L. 104–134, § 31001(g)(1)(B), inserted ''or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title,'' after ''voucher''.

Subsec. (b). Pub. L. 104–201 substituted ''members of the armed forces may certify vouchers when authorized, in writing, by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation'' for ''members of the armed forces under the jurisdiction of the Secretary of Defense may certify vouchers when authorized, in writing, by the Secretary to do so''.

Pub. L. 104–106 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Subsection (a) of this section does not apply to disbursements of a military department of the Department of Defense, except for disbursements for departmental pay and expenses in the District of Columbia.''

Subsec. (d). Pub. L. 104–134, § 31001(y), added subsec. (d).

§ 3326. Waiver of requirements for warrants and advances

(a) When the Secretary of the Treasury and the Comptroller General decide that, with sufficient safeguards, existing procedures may be changed to simplify, improve, and economize the control and accounting of public money, they may prescribe joint regulations for waiving any part of the requirements in effect on September 12, 1950, that—

(1) warrants be issued and countersigned for the receipt, retention, and disbursement of public money and trust funds; and

(2) amounts be requisitioned and advanced to accountable officials.

(b) Regulations of the Secretary and the Comptroller General may provide for the payment of vouchers by authorized disbursing officials by checks drawn on the general fund of the Treasury. However, the regulations shall provide for appropriate action (including suspension or withdrawal of authority to make payments) against a delinquent disbursing official for any reason related to the official's accounts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 951.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3326(a)	31:66c(a).	Sept. 12, 1950, ch. 946, § 115, 64 Stat. 837.
3326(b)	31:66c(b).	

In subsection (a), before clause (1), the words ''in effect on September 12, 1950'' are substituted for ''existing'' for clarity. In clause (2), the words ''under each separate appropriation head or otherwise'' are omitted as surplus.

In subsection (b), the word ''official'' is substituted for ''officers'' for consistency. The word ''Treasury'' is substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words ''in the rendition of their accounts or for other'' and ''under necessary circumstances'' are omitted as surplus.

§ 3327. General authority to issue checks and other drafts

(a) The Secretary of the Treasury may issue a check or other draft on public money in the Treasury to pay an obligation of the United States Government. When the Secretary decides it is convenient to a public creditor and in the public interest, the Secretary may designate a depositary to issue a check or other draft on public money held by the depositary to pay an obligation of the Government. As directed by the Secretary, each depositary shall report to the Secretary on public money paid and received by the depositary.

(b) The Secretary of the Treasury shall take such actions as are necessary to ensure that So-

cial Security account numbers (including derivatives of such numbers) are not visible on or through unopened mailings of checks or other drafts described in subsection (a) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 952; Pub. L. 106–433, § 2, Nov. 6, 2000, 114 Stat. 1910.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3327	31:526.	R.S. § 3644.

The words ''Secretary of the Treasury'' are substituted for ''Treasurer'' because of the source provisions restated in section 321(c) of the revised title. The words ''may issue a check or other draft'' are substituted for ''shall be subject to the draft of'' for consistency in the revised title. The words ''public money'' are substituted for ''moneys'' because section 10 of the Act of August 6, 1846 (ch. 90, 9 Stat. 61), from which section 3644 of the Revised Statutes is derived, used the term ''public money''. The words ''obligation of the United States Government'' are substituted for ''on the public account'', and the words ''may designate a depositary to issue a check or draft on public money held by the depositary to pay an obligation of the Government'' are substituted for ''is authorized to draw upon any of the depositaries'' for clarity and consistency. The words ''at such times and in such forms . . . shall be'' are omitted as surplus. The words ''United States Postal Service'' and ''Postmaster General'' are omitted because of 39:410. The words ''report to the Secretary on public money paid and received by the depositary'' are substituted for ''so drawn upon shall make returns to the Treasury Department'' for clarity and consistency.

AMENDMENTS

2000—Pub. L. 106–433 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2000 AMENDMENT AND TRANSITIONAL RULE

Pub. L. 106–433, § 3, Nov. 6, 2000, 114 Stat. 1910, provided that:

''(a) IN GENERAL.—The amendments made by this Act [amending this section] shall apply with respect to all mailings of checks or other drafts issued on or after the date which is 3 years after the date of the enactment of this Act [Nov. 6, 2000].

''(b) PHASE-IN OF AMENDMENTS.—Effective on the date of the enactment of this Act, the Secretary of the Treasury shall commence procedures to gradually implement the amendments made by this Act in advance of the effective date described in subsection (a). Not later than 1 year after the date of the enactment of this Act, and annually thereafter for each of the next 2 years, the Secretary shall transmit to each House of the Congress a report describing the manner and extent to which the requirements of the preceding sentence have been carried out.''

§ 3328. Paying checks and drafts

(a) TIME LIMIT ON TREASURY CHECKS.—

(1) IN GENERAL.—Except as provided in sections 3329 and 3330 of this title—

(A) the Secretary shall not be required to pay a Treasury check issued on or after the effective date of this section unless it is negotiated to a financial institution within 12 months after the date on which the check was issued; and

(B) the Secretary shall not be required to pay a Treasury check issued before the effective date of this section unless it is negotiated to a financial institution within 12 months after such effective date.

(2) DEFERRAL PENDING SETTLEMENT.—Notwithstanding the time limitations imposed by paragraph (1), if the Secretary is on notice of a question of law or fact about whether a Treasury check is properly payable when the check is presented for payment, the Secretary may defer payment on such check until the question is settled.

(3) Nothing in this subsection shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(b)(1) If a check issued by a disbursing official and drawn on a designated depositary is not paid by the last day of the fiscal year after the fiscal year in which the check was issued, the amount of the check is—

(A) withdrawn from the account with the depositary; and

(B) deposited in the Treasury for credit to a consolidated account of the Treasury.

(2) A claim for the proceeds of an unpaid check under this subsection may be paid from a consolidated account by a check drawn on the Treasury.

(c) A limitation imposed on a claim against the United States Government under section 3702 of this title does not apply to an unpaid check drawn on the Treasury or a designated depositary.

(d) The Secretary may prescribe regulations the Secretary decides are necessary to carry out subsections (a)–(c) of this section.

(e)(1) The Secretary shall prescribe regulations on—

(A) enforcing the speedy presentation of Government drafts;

(B) paying drafts, including the place of payment; and

(C) paying drafts if presentment is not made as required.

(2) Regulations prescribed under paragraph (1) of this subsection shall prevent, as far as may be practicable, Government drafts from being used or placed in circulation as paper currency or a medium of exchange.

(f) AUTHORITY TO DECLINE PAYMENT.—Nothing in this section limits the authority of the Secretary to decline payment of a Treasury check after first examination thereof at the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 952; Pub. L. 100–86, title X, § 1002, Aug. 10, 1987, 101 Stat. 658; Pub. L. 104–316, title I, § 115(d), Oct. 19, 1996, 110 Stat. 3834.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3328(a)(1)	31:132(a).	July 11, 1947, ch. 222, § 1, 61 Stat. 308; restated Aug. 28, 1957, Pub. L. 85–183, § 1, 71 Stat. 464.
3328(a)(2)	31:134(less last 30 words before 1st proviso).	July 11, 1947, ch. 222, § 3, 61 Stat. 309; restated Aug. 28, 1957, Pub. L. 85–183, § 2, 71 Stat. 464.
3328(b)	31:132(b).	
3328(c)	31:132(c).	
3328(d)	31:134(last 30 words before 1st proviso).	
3328(e)	31:527	R.S. § 3645.

In the section, the word ''Treasury'' is substituted for ''Treasurer of the United States'' because of the source

provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280).

In subsections (a)(1) and (b), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsections (a)(1) and (c), the words ''heretofore or hereafter'' are omitted as surplus.

In subsection (a)(1), the words ''Except as provided in sections 3330 and 3331 of this title'' are added for clarity. The words ''including those drawn by wholly owned and mixed-ownership Government corporations'' are omitted as surplus. The words ''Secretary of the Treasury'' are substituted for ''Treasurer of the United States'' after ''for payment the'' because of the source provisions restated in section 321(c) of the revised title. The words ''doubtful'', ''for payment'', and ''of such check'' are omitted as surplus.

In subsection (a)(2), before clause (A), the words ''When the Secretary decides it is appropriate'' are substituted for ''at appropriate intervals'' for clarity. In clauses (A) and (B), the words ''on the books'' are omitted as surplus. In clause (A), the words ''drawn on the Treasury'' are added for clarity and consistency. In clause (B), the words ''from the accounts . . . for the payment of unpaid checks . . . of the Treasury'' are omitted as surplus. The words ''and to transfer to such consolidated account or accounts the balance of the special deposit account established pursuant to section 132 of this title'', and the words ''any unpaid checks heretofore payable from the special deposit account'', are omitted as executed because the account was established under 31:132 as originally enacted in 1947 and then abolished by the 1957 amendment to that section. The text of 31:134(1st proviso) is omitted as superseded by section 448 of the Act of December 24, 1973 (Pub. L. 93–198, 87 Stat. 801). The text of 31:134(last proviso) is omitted as executed.

In subsection (b)(1), before clause (A), the words ''issued by a disbursing official'' are substituted for ''drawn by authorized officers of the United States'' for consistency. In clause (B), the words ''or accounts on the books'' are omitted as surplus.

Subsection (c) is substituted for 31:132(c) for consistency and to eliminate unnecessary words.

In subsection (d), the words ''rules and'' and ''or proper'' are omitted as surplus.

In subsection (e)(1), before clause (A), the word ''prescribe'' is substituted for ''issue and publish'' for consistency in the revised title and with other titles of the United States Code. In clause (B), the words ''and to prescribe the time, according to the different distances of the depositaries from the seat of Government, within which all drafts upon them, respectively, shall be presented for payment'' are omitted as superseded by subsection (a) of the revised section. Clause (C) is substituted for 31:527(words between semicolons) to eliminate unnecessary words.

In subsection (e)(2), the words ''and directions'' are omitted as surplus.

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a)(1), probably means the effective date of subsec. (a) of this section as amended by section 1002 of Pub. L. 100–86, which is effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations. See section 1006 of Pub. L. 100–86, set out as a note below.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–316, § 115(d)(1), substituted ''until the question is settled'' for ''until the Comptroller General settles the question''.

Subsec. (b)(2). Pub. L. 104–316, § 115(d)(2), struck out ''on settlement by the Comptroller General'' after ''the Treasury''.

Subsec. (d). Pub. L. 104–316, § 115(d)(3), substituted ''The'' for ''With the approval of the Comptroller General, the''.

1987—Subsec. (a). Pub. L. 100–86, § 1002(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(1) Except as provided in sections 3329 and 3330 of this title, a check drawn on the Treasury may be paid at any time. However, if the Secretary of the Treasury is on notice of a question of law or fact about the check when the check is presented, the Secretary shall defer payment until the Comptroller General settles the question.

''(2) When the Secretary decides it is appropriate, the Secretary may transfer—

''(A) the amount of an unpaid check drawn on the Treasury from the account on which it was drawn to a consolidated account of the Treasury available for paying checks; and

''(B) an amount available, but not required, for paying checks drawn on the Treasury to the appropriate receipt account.''

Subsec. (f). Pub. L. 100–86, § 1002(2), added subsec. (f).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 1006 of Pub. L. 100–86 provided that: ''The amendments made by sections 1002, 1003, and 1004 [enacting section 3334 of this title and amending this section and sections 3702 and 3712 of this title] shall become effective 6 months after the date of enactment of this Act [Aug. 10, 1987] or on such later date as the Secretary of the Treasury may prescribe in regulations.''

REGULATIONS

Section 1005 of Pub. L. 100–86 provided that: ''The Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary deems necessary to implement the amendments made by sections 1002, 1003, and 1004 [enacting section 3334 of this title and amending this section and sections 3702 and 3712 of this title], including the recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred.''

§ 3329. Withholding checks to be sent to foreign countries

(a) The Secretary of the Treasury shall prohibit a check or warrant drawn on public money from being sent to a foreign country from the United States or from a territory or possession of the United States when the Secretary decides that postal, transportation, or banking facilities generally, or local conditions in the foreign country, do not reasonably ensure that the payee—

(1) will receive the check or warrant; and

(2) will be able to negotiate it for full value.

(b)(1) If a check or warrant is prohibited from being sent to a foreign country under subsection (a) of this section, the drawer shall hold the check or warrant until the end of the calendar quarter after the date of the check or warrant.

(2) The Secretary may release the check or warrant for delivery during the calendar quarter after the date of the check or warrant if the Secretary decides that conditions have changed to ensure reasonably that the payee—

(A) will receive the check or warrant; and

(B) will be able to negotiate it for full value.

(3) Unless the Secretary otherwise directs, the drawer shall send at the end of the calendar quarter after the date of the check or warrant the—

(A) withheld check or warrant to the drawee; and

(B) report to the Secretary on—

(i) the name and address of the payee;

(ii) the date, number, and amount of the check or warrant; and

(iii) the account on which the check or warrant was drawn.

(4) The drawee shall transfer the amount of a withheld check or warrant from the account of the drawer to the special deposit account ''Secretary of the Treasury, Proceeds of Withheld Foreign Checks''. The check or warrant shall be marked ''Paid into Withheld Foreign Check Account''. The Secretary shall credit the accounts of the drawer and drawee.

(c) The Secretary may pay an amount deposited in the special account under subsection (b)(4) of this section with a check drawn on the account when—

(1) a person claiming payment satisfies the Secretary of the right to the amount of the check or warrant (or satisfies the Secretary of Veterans Affairs if the claim represents a payment under laws administered by the Secretary of Veterans Affairs); and

(2) the Secretary is reasonably ensured that the person—

(A) will receive the check or warrant; and

(B) will be able to negotiate it for full value.

(d) This section and section 3330 of this title—

(1) apply to a check or warrant whose delivery may be withheld under Executive Order 8389;

(2) do not affect a requirement for a license for delivering and paying a check in payment of a claim under subsection (c) of this section when a license is required by law to authorize delivery and payment; and

(3) do not affect a check or warrant issued for the payment of pay or goods bought by the United States Government in a foreign country.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 953; Pub. L. 102–54, § 13(*l*)(2), June 13, 1991, 105 Stat. 277; Pub. L. 104–316, title I, § 115(e), Oct. 19, 1996, 110 Stat. 3834.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3329(a)	31:123(words before 1st proviso).	Oct. 9, 1940, ch. 796, § 1(words before 1st proviso), 54 Stat. 1086; Dec. 2, 1942, ch. 659, 56 Stat. 1028.
3329(b)	31:124(1st par.).	Oct. 9, 1940, ch. 796, §§ 2(1st par.), 3(1st par.), 4, 6, 54 Stat. 1086, 1087.
3329(c)	31:125(1st par.).	
3329(d)	31:126. 31:128.	

In the section, the words ''drawn on'' are substituted for ''drawn against'' for consistency in the revised chapter. The word ''actually'' is omitted as surplus.

In subsection (a), before clause (1), the words ''On and after October 9, 1940'' are omitted as executed. The words ''drawn on public money'' are substituted for ''drawn against funds of the United States, or any agency or instrumentality thereof'' to eliminate unnecessary words and for consistency in the chapter. The words ''and the Commonwealth of the Philippine Islands'' in section 1 of the Act of October 9, 1940, are omitted because of Proclamation No. 2695 of July 4, 1946 (60 Stat. 1352). The words ''to which such check or warrant is to be delivered'' are omitted as surplus.

In subsection (b)(3)(A), the words ''in accordance with the provisions of sections 123 to 128 of this title'' and ''thereof'' are omitted as surplus.

In subsection (b)(3)(B), before subclause (i), the word ''Secretary'' is substituted for ''Bureau of Accounts of the Treasury Department'' because of the source provisions restated in section 321 of the revised title. The word ''fully'' is omitted as surplus.

In subsection (b)(4), the word ''withheld'' is substituted for ''undelivered'' for clarity. The words ''with the Treasurer of the United States'' and the words ''of the United States'' after ''Comptroller General'' are omitted as unnecessary.

In subsection (d)(1), the words ''is now being, or . . . hereafter'' and ''as well as to all checks or warrants the delivery of which is now being withheld pursuant to administrative action, which administrative action is ratified and confirmed'' in 31:126 are omitted as executed.

In subsection (d)(2), the words ''do not affect a requirement for'' are substituted for ''nothing in sections 123 to 128 of this title shall be construed to dispense with the necessity of'' in 31:126 to eliminate unnecessary words and because of the restatement. The words ''obtaining . . . authorize'' and ''is now or hereafter'' are omitted as surplus.

In subsection (d)(3), the words ''does not affect'' are substituted for ''Nothing contained in sections 123 to 128 of this title shall be construed as affecting or applying to'' in 31:128 to eliminate unnecessary words and because of the restatement. The word ''pay'' is substituted for ''salaries or wages'' for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104–316 substituted ''The Secretary shall credit the accounts of the drawer and drawee.'' for ''After that time, the drawee shall send all withheld checks and warrants to the Comptroller General. The Comptroller General shall credit the accounts of the drawer and drawee.''

1991—Subsec. (c)(1). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs'' and ''laws administered by the Secretary of Veterans Affairs'' for ''laws carried out by the Administrator''.

§ 3330. Payment of Department of Veterans Affairs checks for the benefit of individuals in foreign countries

(a)(1) A check is deemed to be issued for sending to a foreign country and subject to this section and section 3329 of this title if the check is—

(A) drawn on public money;

(B) for benefits under laws carried out by the Secretary of Veterans Affairs; and

(C) to be sent to a person in the United States or a territory or possession of the United States, and the person is legally responsible for the care of an individual in a foreign country.

(2) The Secretary of Veterans Affairs shall notify the Secretary of the Treasury of each check described under paragraph (1) of this subsection.

(3) The Secretary of Veterans Affairs may exempt a check from paragraph (1) of this subsection if the application of paragraph (1) would reduce, discontinue, or deny benefits for the care of a dependent of an individual in a foreign country.

(b) When the amount of checks (representing payments to an individual under laws administered by the Secretary of Veterans Affairs) transferred under section 3329(b)(4) of this title equals $1,000, the amounts of additional checks (except checks under contracts of insurance)

payable to the individual under those laws shall be deposited in the Treasury as miscellaneous receipts. An amount transferred under section 3329(b)(4) or deposited as miscellaneous receipts is deemed to be payment for all purposes to the individual entitled to payment.

(c) If the payee of a check for pension, compensation, or emergency officers' retirement pay under laws administered by the Secretary of Veterans Affairs dies while the amount of the check is in the special deposit account, the amount is payable (subject to section 3329 of this title and this section) as follows:

(1) after the death of the veteran, to the surviving spouse, or, if there is no surviving spouse, to children of the veteran under 18 years of age at the time of the veteran's death.

(2) after the death of the surviving spouse, to children of the spouse under 18 years of age at the time of the spouse's death.

(3) after the death of an apportionee of a part of the veteran's pension, compensation, or emergency officers' retirement pay but before all of the apportioned amount is paid to the veteran, the apportioned amount not paid.

(4) in any other case, only to the extent necessary to reimburse a person for burial expenses.

(d)(1) A payment may be made under subsection (c) of this section only if a claim for payment is—

(A) filed with the Secretary of Veterans Affairs by the end of the first year after the date of the death of the individual entitled to payment; and

(B) completed by submitting the necessary evidence by the 6th month after the date the Secretary of Veterans Affairs requests the evidence.

(2) Payment shall include only amounts due at the time of death under ratings or decisions existing at the time of the death.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 954; Pub. L. 102–54, § 13(*l*)(3), (4)(A), June 13, 1991, 105 Stat. 277; Pub. L. 103–272, § 4(f)(1)(I), July 5, 1994, 108 Stat. 1362.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3330(a)	31:123(provisos).	Oct. 9, 1940, ch. 796, 54 Stat. 1086, § 1(provisos); added Dec. 2, 1942, ch. 659, 56 Stat. 1028.
3330(b)	31:124(last par.).	Oct. 9, 1940, ch. 796, §§ 2(last par.), 3(last par.), 54 Stat. 1086, 1087.
3330(c), (d).	31:125(last par.).	

In the section, the words ''laws carried out'' are substituted for ''laws administered'', and the words ''Administrator of Veterans' Affairs'' and ''Administrator'' are substituted for ''Veterans' Administration'', for consistency.

In subsection (a)(1), before clause (A), the word ''issued'' is substituted for ''drawn'' for clarity and consistency. Clause (A) is substituted for ''drawn against funds of the United States'' for consistency in the chapter. In clause (C), the words ''guardian, curator, conservator, or other'' are omitted as surplus. The words ''legally responsible for'' are substituted for ''vested with'' for clarity.

In subsection (b), the words ''under section 3329(b)(4) of this title'' are substituted for ''to the special deposit account'' for clarity and because of the restatement. The words ''deposited in'' are substituted for ''covered into'' for clarity and consistency in the revised title.

In subsection (c), before clause (1), the word ''accruing'' is omitted as surplus. In clauses (1) and (2), the words ''surviving spouse'' and ''spouse'' are substituted for ''widow'', and the word ''spouse's'' is substituted for ''widow's'', to conform to amendments made generally to title 38 by the Veterans Disability Compensation and Survivor Benefits Act of 1976 (Pub. L. 94–433, 90 Stat. 1374). In clause (1), the words ''first to'' are omitted as surplus. In clause (4), the word ''only'' is substituted for ''no disbursement whatsoever of such pension, compensation, or emergency officers' retirement pay shall be made or allowed except so much'' to eliminate unnecessary words.

In subsection (d)(1)(B), the word ''completed'' is substituted for ''perfected'' for clarity.

In subsection (d)(2), the words ''and unpaid'' are omitted as surplus.

AMENDMENTS

1994—Subsec. (d)(1)(B). Pub. L. 103–272 substituted ''Secretary of Veterans Affairs'' for ''Administrator''.

1991—Pub. L. 102–54, § 13(*l*)(4)(A), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'' in section catchline.

Subsec. (a)(1)(B). Pub. L. 102–54, § 13(*l*)(3)(A), substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

Subsec. (a)(2), (3). Pub. L. 102–54, § 13(*l*)(3)(B), substituted ''Secretary of Veterans Affairs'' for ''Administrator''.

Subsecs. (b), (c). Pub. L. 102–54, § 13(*l*)(3)(C), substituted ''laws administered by the Secretary of Veterans Affairs'' for ''laws carried out by the Administrator''.

Subsec. (d)(1)(A). Pub. L. 102–54, § 13(*l*)(3)(B), substituted ''Secretary of Veterans Affairs'' for ''Administrator''.

§ 3331. Substitute checks

(a) In this section, ''original check''—

(1) means an order for the payment of money—

(A) payable on demand;

(B) that does not bear interest;

(C) drawn by an authorized disbursing official or agent of the United States Government; and

(D) the amount of which is deposited with the Treasury or another account available for payment; and

(2) does not include coins and currency of the Government.

(b) When the Secretary of the Treasury is satisfied that an original check is lost, stolen, destroyed in any part, or is so defaced that the value to the owner or holder is impaired, the Secretary may issue a substitute check to the owner or holder of the original check. Except as provided in subsection (c) or (f) of this section, the substitute check is payable from the amount available to pay the original check.

(c) When the Secretary is satisfied that an original check drawn on a depositary in a foreign country or a territory or possession of the United States is lost, stolen, destroyed in part, or is so defaced that its value to the owner or holder is impaired, the drawer of the original check (or another official designated by the Secretary with the approval of the head of the agency on whose behalf the original check was issued) may issue to the owner or holder of the

check a substitute check. The drawer or official shall issue the substitute check by the last day of the fiscal year after the fiscal year in which the original check was issued—

(1) using the current date; and

(2) drawn on the account of the drawer of the original check or another account available for payment of the substitute.

(d) A substitute check issued under this section—

(1) may be paid only if the original check has not been paid;

(2) shall include information necessary to identify the original check;

(3) that is drawn on the Treasury—

(A) is deemed to be an original check; and

(B) is paid under the same conditions as the original check; and

(4) does not relieve a disbursing or certifying official from liability to the Government for payment resulting from erroneously issuing the original check.

(e) Before issuing a substitute check under this section, the Secretary may require the owner or holder of the original check to agree to indemnify the Government with security in the form and amount the Secretary decides is necessary.

(f) The Secretary may waive any provision of this section as may be necessary to ensure that claimants receive timely payments.

(g) Under conditions the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may delegate those duties and powers to an officer or employee of the agency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 955; Pub. L. 97–452, § 1(11), Jan. 12, 1983, 96 Stat. 2468; Pub. L. 104–134, title III, § 31001(x)(2), Apr. 26, 1996, 110 Stat. 1321–377.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3331(a)	31:528(g).	R.S. § 3646(a)–(c), (f), (g); Feb. 16, 1885, ch. 123, 23 Stat. 306; Mar. 23, 1906, ch. 1129, 34 Stat. 84; June 19, 1906, ch. 3434, 34 Stat. 301; May 27, 1908, ch. 206(par. beginning on p. 415 amending §§ 3646, 3647), 35 Stat. 415; Feb. 23, 1909, ch. 174, 35 Stat. 643; Mar. 21, 1916, ch. 52, 39 Stat. 37; July 8, 1937, ch. 444, § 9, 50 Stat. 482; Aug. 10, 1939, ch. 665, §§ 5–7, 53 Stat. 1359; restated Dec. 3, 1945, ch. 515, § 1, 59 Stat. 592; July 11, 1947, ch. 222, § 4(c), (d)(related to § 3646(c)), (e), (f), 61 Stat. 309; Aug. 28, 1957, Pub. L. 85–183, §§ 4, 5(a), (c), 71 Stat. 465; June 6, 1972, Pub. L. 92–310, § 231(s), 86 Stat. 211; Sept. 22, 1978, Pub. L. 95–380, 92 Stat. 725.
3331(b)	31:528(a)(less last 28 words before proviso, proviso).	
3331(c)	31:528(c)(1st sentence 1st–158th words, 171st–195th words).	

HISTORICAL AND REVISION NOTES—CONTINUED
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3331(d)	31:528(a)(last 28 words before proviso, proviso), (c)(1st sentence 159th–170th words, 237th–last words, last sentence), (f).	
3331(e)	31:528(b), (c)(1st sentence 196th–236th words).	

In subsection (a), before clause (1), the words ''The term . . . wherever used'' are omitted as unnecessary. In clause (1), before subclause (A), the words ''check, warrant, or other'' are omitted as surplus. In subclause (C), the word ''duly'' is omitted as surplus. The words ''disbursing official or agent'' are substituted for ''officer or agent'' for consistency in the revised title. The words ''any wholly owned or mixed-ownership Government corporation'' are omitted as already being included in the restated source provisions and because of section 101 of the revised title. Therefore, the text is not meant to exclude employees of wholly owned Government corporations and mixed-ownership Government corporations. The words ''the District of Columbia, or the District Unemployment Compensation Board'' are omitted because of section 448 of the Act of December 24, 1973 (Pub. L. 93–198, 87 Stat. 801). The words ''or by any entity owned or controlled by the United States'' are omitted as unnecessary. In subclause (D), the words ''and covered . . . or deposited with the Treasurer of the United States'' are omitted as surplus. The words ''or another account available for payment'' are added for clarity and consistency in the revised section. In clause (2), the word ''money'' is omitted as being covered by ''coins and currency''.

In subsections (b) and (c), the words ''When the Secretary is satisfied'' are substituted for ''whenever it is clearly proved to the satisfaction of the Secretary'' to eliminate unnecessary words. The words ''mutilated or'' are omitted as being covered by ''defaced''.

In subsection (c), before clause (1), the words ''Notwithstanding the provisions of subsections (a) and (b) of this section'' are omitted as unnecessary. The words ''including the Panama Canal Zone'' are omitted because of the Panama Canal Treaty of 1977. The words ''official designated'' are substituted for ''officer or employee of the United States as may be authorized'' for consistency in the revised title and with other titles of the United States Code. The word ''agency'' is substituted for ''department or agency'' because of section 101 of the revised title and for consistency. In clause (2), the words ''drawn on'' are substituted for ''drawn against'' for consistency in the revised chapter.

In subsection (d)(3), before subclause (A), the word ''Treasury'' is substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280).

In subsection (d)(4), the word ''official'' is substituted for ''officer'' for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the words ''surety or'' are omitted as surplus. The words ''the receipt and approval by the Secretary of the Treasury of'' are omitted because of the restatement.

1983 ACT

This restates, as 31:3331(f), section 3646(h) of the Revised Statutes that was inadvertently omitted from the codification of title 31 by the Act of Sept. 13, 1982 (Pub. L. 97–258, 96 Stat. 1084). It provides authority for the Secretary of the Treasury to delegate duties and powers related to issuing substitute checks to heads of other agencies.

The words ''terms and'' are omitted as surplus. The words ''duties and powers'' are substituted for ''power,

authority, or discretion'' for consistency in the revised title and with other titles of the United States Code. The words ''in whole or in part'' are omitted as surplus. The words ''to such individuals as he may designate within the Treasury Department'' are omitted because of 31:321(b)(2). The word ''agency'' is coextensive with and substituted for ''other department or agency of the Government or of any Federal Reserve bank'' because of 31:101. The words ''terms and conditions'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–134, § 31001(x)(2)(A), substituted ''subsection (c) or (f)'' for ''subsection (c)''.

Subsecs. (f), (g). Pub. L. 104–134, § 31001(x)(2)(B), (C), added subsec. (f) and redesignated former subsec. (f) as (g).

1983—Subsec. (f). Pub. L. 97–452 added subsec. (f).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2(i) of Pub. L. 97–452 provided that: ''The amendments made by section 1(11), (14), (19), (22), (24), (26), and (27) [amending this section and sections 3702, 5103, 5154, 6501, 9101, 9107, and 9108 of this title] are effective as of September 13, 1982.''

§ 3332. Required direct deposit

(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120(a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payment after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1996 shall be made by electronic funds transfer.

(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent.

(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120(a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

(i) for individuals or classes of individuals for whom compliance imposes a hardship;

(ii) for classifications or types of checks; or

(iii) in other circumstances as may be necessary.

(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—

(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and

(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments through each institution or agent designated under paragraph (1).

(h) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.

(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

(2) Regulations under this subsection shall ensure that individuals required under subsection (g) to have an account at a financial institution because of the application of subsection (f)(1)—

(A) will have access to such an account at a reasonable cost; and

(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

(j) For purposes of this section—

(1) The term ''electronic funds transfer'' means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

(2) The term ''Federal agency'' means—

(A) an agency (as defined in section 101 of this title); and

(B) a Government corporation (as defined in section 103 of title 5).

(3) The term ''Federal payments'' includes—

(A) Federal wage, salary, and retirement payments;

(B) vendor and expense reimbursement payments; and

(C) benefit payments.

Such term shall not include any payment under the Internal Revenue Code of 1986.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 955; Pub. L. 98–369, div. B, title VIII, § 2814, July 18, 1984, 98 Stat. 1207; Pub. L. 103–356, title IV, § 402(a), Oct. 13, 1994, 108 Stat. 3412; Pub. L. 104–134, title III, § 31001(x)(1), Apr. 26, 1996, 110 Stat. 1321–376.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3332(a)	31:492(b)(3).	R.S. § 3620(b), (c); added Aug. 28, 1965, Pub. L. 89–145, § 1(2), 79 Stat. 582; restated June 29, 1968, Pub. L. 90–365, 82 Stat. 274; July 19, 1975, Pub. L. 94–57, § 1(a), 89 Stat. 265.
	31:492(note).	July 19, 1975, Pub. L. 94–57, § 1(b)(1st sentence), (c)(1st sentence), 89 Stat. 265.
3332(b)	31:492(b)(1)(1st sentence words before 1st comma, words between 2d comma and proviso).	
3332(c)	31:492(b)(1)(proviso, last sentence).	
	31:492(note).	July 19, 1975, Pub. L. 94–57, 89 Stat. 265, § 1(b)(2d, last sentences), (c)(2d, last sentences); added Dec. 18, 1975, Pub. L. 94–157, § 109, 89 Stat. 831.
3332(d)	31:492(b)(2)(less 32d–43d words).	
3332(e)	31:492(c).	
3332(f)	31:492(d)(1st–50th words).	R.S. § 3620(d); added Aug. 7, 1972, Pub. L. 92–366, 86 Stat. 506.
3332(g)	31:492(b)(1)(1st sentence words between 1st and 2d commas), (2)(32d–43d words), (d)(51st–last words).	
	31:492(note).	

In subsection (a), the definition of ''agency'' is omitted because of section 101 of the revised title. The words ''and the municipal government of the District of Columbia'' are omitted because of section 448 of the Act of December 24, 1973 (Pub. L. 93–198, 87 Stat. 801). The text of section 1(b)(1st sentence) and (c)(1st sentence) of the Act of July 19, 1975, is omitted as executed. In clause (2), the words ''savings bank'' are omitted as surplus.

In subsections (b)–(f), the words ''officer or employee'' are substituted for ''employee'' for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (d), the word ''official'' is substituted for ''officer'' for consistency in the revised title and with other titles of the Code. The words ''issue a check payable to'' are substituted for ''make the payment . . . by sending to . . . a check that is drawn in favor of the organization'' for clarity and consistency and to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''Notwithstanding subsection (a) of this section or any other provision of law'' are omitted as unnecessary. The words ''may designate in writing not more than 3 financial organizations to which a payment of pay of the officer or employee shall be sent and the amount to be sent to each organization'' are substituted for ''upon the written request of an employee of the agency to whom a payment for wages or salary is to be made . . . in the form of one, two, or three checks (the number of checks . . . if more than one . . . designated by such employee'' for clarity, consistency in the revised title and with other titles of the Code, and to eliminate unnecessary words.

In subsection (c), the words ''(except for a financial organization designated by an officer or employee of either House of Congress)'' are substituted for section 1(b)(last sentence) and (c)(last sentence) of the Act of July 19, 1975 (Pub. L. 94–57, 89 Stat. 265), because of the restatement. The words ''to which such check is sent'' are omitted because of the restatement.

In subsection (d), the words ''to whom a payment is to be made'' are omitted as surplus. The words ''upon the written request of such employee'' are omitted as unnecessary. The words ''accompanied by a schedule'' are added for clarity.

In subsection (e), the word ''payment'' is substituted for ''acquittance'' for clarity and consistency.

Subsection (f) is substituted for 31:492(d)(1st–50th words) to eliminate unnecessary words.

In subsection (g), the words ''rules and'' in section 1(b) and (c) of the Act of July 19, 1975 (Pub. L. 94–57, 89 Stat. 265), are omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of the Debt Collection Improvement Act of 1996, referred to in subsec. (e)(1), is the date of enactment of section 31001 of Pub. L. 104–134, which was approved Apr. 26, 1996.

The Internal Revenue Code of 1986, referred to in subsec. (j)(3), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsecs. (e) to (j). Pub. L. 104–134 added subsecs. (e) to (g), redesignated former subsec. (e) as (h), and added subsecs. (i) and (j).

1994—Pub. L. 103–356 substituted ''Required direct deposit'' for ''Checks payable to financial organizations designated by Government officers and employees'' as section catchline and amended text generally. Prior to amendment, section authorized agency officers and employees to designate not more than 3 financial organizations to which a payment of pay or other recurring payments was to be sent without charge and required the agency head to authorize issuance of checks payable to those financial organizations in the designated amounts.

1984—Subsec. (b). Pub. L. 98–369, § 2814(a), inserted ''without charge'' after ''shall be sent''.

Subsecs. (c) to (g). Pub. L. 98–369, § 2814(b), struck out subsec. (c) which related to reimbursement of an agency for issuing additional checks, and redesignated subsecs. (d) to (g) as (c) to (f), respectively.

SAVINGS PROVISION

Any waiver in effect on Oct. 5, 1999, under subsec. (f)(2)(A)(i) of this section to remain in effect until otherwise provided by the Secretary of Defense under section 2786 of Title 10, Armed Forces, see section 1008(a)(3) of Pub. L. 106–65, set out as a note under section 2786 of Title 10.

ELECTRONIC PAY STUBS

Pub. L. 110–423, § 1, Oct. 15, 2008, 122 Stat. 4818, provided that:

''(a) IN GENERAL.—The Office of Personnel Management shall take such measures as may be appropriate to ensure that all employees who receive their pay by electronic funds transfer shall be given the option of receiving their pay stubs electronically.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'electronic funds transfer' has the meaning given such term by section 3332 of title 31, United States Code;

''(2) the term 'employee' means an individual employed in or under an Executive agency; and

''(3) the term 'Executive agency' has the meaning given such term by section 105 of title 5, United States Code.''

§ 3333. Relief for payments made without negligence

(a)(1) The Secretary of the Treasury is not liable for a payment made by the Secretary or depositary in due course and without negligence, of—

(A) a check, draft, or warrant drawn on the Treasury or the depositary;

(B) an electronic payment issued by the Treasury or the depositary; and

(C) a debt obligation guaranteed or assumed by the United States Government.

(2) The Comptroller General shall credit the accounts of the Treasury or the depositary for the payment.

(3) The amount of the relief and the amount of any relief granted to an official or agent of the Department of the Treasury under 31 U.S.C. 3527, shall be charged to the Check Forgery Insurance Fund (31 U.S.C. 3343). A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.

(b) This section does not relieve another individual from civil or criminal liability for a check, draft, warrant, or debt obligation of the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 956; Pub. L. 108–447, div. H, title II, § 220(a), Dec. 8, 2004, 118 Stat. 3242; Pub. L. 110–161, div. D, title I, § 119, Dec. 26, 2007, 121 Stat. 1979.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3333(a)	31:156(less proviso).	Aug. 4, 1947, ch. 455, § 3, 61 Stat. 730.
3333(b)	31:156(proviso).	

In subsection (a)(1), before clause (A), the words ''Secretary of the Treasury'' are substituted for ''Treasurer'' before ''is not liable'' because of the source provisions restated in section 321(c) of the revised title. The word ''depositary'' is substituted for ''upon the Treasurer of the United States through any Federal Reserve Bank'' for consistency in the revised title. The words ''Whenever . . . heretofore has been or hereafter'' and ''or on behalf of'' are omitted as surplus. In clause (A), the word ''Treasury'' is substituted for ''Treasurer of the United States'' after ''drawn upon the'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). In clause (B), the words ''public . . . of the United States, including any obligation of any type whatever, the payment of which is'' are omitted as surplus.

In subsection (a)(2), the words ''of the United States'' are omitted as unnecessary. The words ''of the Treasury or the depositary'' are substituted for ''Treasurer's'' because of the restatement.

In subsection (b), the words ''another individual'' are substituted for ''any person, other than the Treasurer of the United States'' to eliminate unnecessary words. The words ''now existing or which may hereafter exist'' are omitted as unnecessary.

AMENDMENTS

2007—Subsec. (a)(3). Pub. L. 110–161 added par. (3) and struck out former par. (3) which read as follows: ''The amount of the relief shall be charged to the Check Forgery Insurance Fund (31 U.S.C. 3343). A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.''

2004—Subsec. (a)(1). Pub. L. 108–447, § 220(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follow: ''The Secretary of the Treasury is not liable for a payment made by the Secretary or depositary in due course and without negligence, of a—

''(A) check, draft, or warrant drawn on the Treasury or the depositary; and

''(B) debt obligation guaranteed or assumed by the United States Government.''

Subsec. (a)(3). Pub. L. 108–447, § 220(a)(2), added par. (3).

§ 3334. Cancellation and proceeds distribution of Treasury checks

(a) IN GENERAL.—(1) The Secretary shall provide monthly to each agency that authorizes the issuance of Treasury checks a list of those checks issued for such agency on or after such effective date that have not been paid and have become more than 12 months old during the preceding month, beginning with the fourteenth month following the effective date of this section.

(2) Such checks shall be canceled by the Secretary and the proceeds thereof shall be returned to the agency concerned and credited to the appropriation or fund account initially charged for the payment.

(b) CHECKS ISSUED BEFORE EFFECTIVE DATE.—(1) Not later than 18 months after the effective date of this section, the Secretary shall identify and cancel all Treasury checks issued before such effective date that have not been paid in accordance with section 3328 of this title.

(2) The proceeds from checks canceled pursuant to paragraph (1) shall be applied to eliminate the balances in accounts that represent uncollectible accounts receivable and other costs associated with the payment of checks and check claims by the Department of the Treasury on behalf of all payment certifying agencies. Any remaining proceeds shall be deposited to the miscellaneous receipts of the Treasury.

(c) NO EFFECT ON UNDERLYING OBLIGATION.—Nothing in this section shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(Added Pub. L. 100–86, title X, § 1003, Aug. 10, 1987, 101 Stat. 658.)

REFERENCES IN TEXT

Such effective date, and the effective date of this section, referred to in subsecs. (a)(1) and (b)(1), is 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations. See Effective Date note below.

EFFECTIVE DATE

Section effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100–86, set out as an Effective Date of 1987 Amendment note under section 3328 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as nec-

essary to implement this section, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100–86, set out as a note under section 3328 of this title.

§ 3335. Timely disbursement of Federal funds

(a) Each head of an executive agency (other than the Tennessee Valley Authority) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary.

(b) The Secretary may collect from any executive agency which does not comply with subsection (a) a charge in an amount the Secretary determines to be the cost to the general fund of the Treasury caused by such noncompliance.

(c) The amounts of charges collected from an executive agency under this section shall be deposited in the Treasury and credited as miscellaneous receipts.

(d) Any charge assessed by the Secretary under this section, to the maximum extent practicable—

(1) shall be paid out of appropriations available for executive agency operations; and

(2) shall not be paid from amounts available for funding programs of an executive agency.

(Added Pub. L. 101–453, § 4(a), Oct. 24, 1990, 104 Stat. 1058.)

REGULATIONS

Section 4(c) of Pub. L. 101–453, as amended by Pub. L. 102–589, § 2(1), Nov. 10, 1992, 106 Stat. 5133, provided that: ''The Secretary of the Treasury shall prescribe regulations under section 3335 of title 31, United States Code, as added by subsection (a), to ensure the full implementation of that section.''

§ 3336. Electronic benefit transfer pilot

(a) The Congress finds that:

(1) Electronic benefit transfer (EBT) is a safe, reliable, and economical way to provide benefit payments to individuals who do not have an account at a financial institution.

(2) The designation of financial institutions as financial agents of the Federal Government for EBT is an appropriate and reasonable use of the Secretary's authority to designate financial agents.

(3) A joint federal-state[1] EBT system offers convenience and economies of scale for those states[1] (and their citizens) that wish to deliver [1]state-administered benefits on a single card by entering into a partnership with the federal[1] government.[1]

(4) The Secretary's designation of a financial agent to deliver EBT is a specialized service not available through ordinary business channels and may be offered to the states[1] pursuant to section 6501 *et seq.* of this title.

(b) The Secretary shall continue to carry out the existing EBT pilot to disburse benefit payments electronically to recipients who do not have an account at a financial institution, which shall include the designation of one or more financial institution[2] as a financial agent of the Government, and the offering to the participating states[1] of the opportunity to contract with the financial agent selected by the Secretary, as described in the Invitation for Expressions of Interest to Acquire EBT Services for the Southern Alliance of States dated March 9, 1995, as amended as of June 30, 1995, July 7, 1995, and August 1, 1995.

(c) The selection and designation of financial agents, the design of the pilot program, and any other matter associated with or related to the EBT pilot described in subsection (b) shall not be subject to judicial review.

(Added Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 664], Sept. 30, 1996, 110 Stat. 3009–314, 3009–385.)

[1] So in original. Probably should be capitalized.

[2] So in original. Probably should be ''institutions''.

SUBCHAPTER III—MISCELLANEOUS

§ 3341. Sale of Government warrants, checks, drafts, and obligations

(a) A disbursing official of the United States Government may sell a Government warrant, check, draft, or obligation not the property of the official at a premium, or dispose of the proceeds of the warrant, check, draft, or obligation, only if the official deposits the premium and the proceeds in the Treasury or with a depositary for the credit of the Government.

(b) A disbursing official violating subsection (a) of this section shall be dismissed immediately.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 956.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3341(a)	31:544(words before last semicolon).	R.S. § 3652.
3341(b)	31:544(words after last semicolon).	

In subsection (a), the words ''disbursing official'' are substituted for ''officer'' for clarity and consistency in the revised title. The words ''either directly or indirectly'' and ''or dispose of to any person'' are omitted as surplus. The words ''Government warrant, check, draft, or obligation'' are substituted for ''Treasury note, draft, warrant, or other public security'' for consistency in the revised title. The words ''or sell . . . avails or . . . in his hands for disbursement'' are omitted as surplus. The words ''only if the official deposits the premium and the proceeds in the Treasury or with a depositary'' are substituted for ''without making return of such premium, and accounting therefor by charging the same in his account'' for clarity and consistency in the chapter.

In subsection (b), the words ''from office'' are omitted as unnecessary.

§ 3342. Check cashing and exchange transactions

(a) A disbursing official of the United States Government may—

(1) cash and negotiate negotiable instruments payable in United States currency or currency of a foreign country;

(2) exchange United States currency, coins, and negotiable instruments and currency, coins, and negotiable instruments of foreign countries; and

(3) cash checks drawn on the Treasury to accommodate United States citizens in a foreign country, but only if—

(A) satisfactory banking facilities are not available in the foreign country; and

(B) a check is presented by the payee who is a United States citizen.

(b) A disbursing official may act under subsection (a)(1) and (2) of this section only for the following:

(1) An official purpose.

(2) Personnel of the Government.

(3) A dependent of personnel of the Government, but only—

(A) at a United States installation at which adequate banking facilities are not available; and

(B) in the case of negotiation of negotiable instruments, if the dependent's sponsor authorizes, in writing, the presentation of negotiable instruments to the disbursing official for negotiation.

(4) A veteran hospitalized or living in an institution operated by an agency.

(5) A contractor, or personnel of a contractor, carrying out a Government project.

(6) Personnel of an authorized agency not part of the Government that operates with an agency of the Government.

(7) A Federal credit union (as defined in section 101(1) of the Federal Credit Union Act (12 U.S.C. 1752(1))) that at the request of the Secretary of Defense is operating on a United States military installation in a foreign country, but only if that country does not permit contractor-operated military banking facilities to operate on such installations.

(8) A member of the military forces of an allied or coalition nation who is participating in a combined operation, combined exercise, or combined humanitarian or peacekeeping mission with the Armed Forces of the United States, but—

(A) only if—

(i) such disbursing official action for members of the military forces of that nation is approved by the senior United States military commander assigned to that operation, exercise, or mission; and

(ii) that nation has guaranteed payment for any deficiency resulting from such disbursing official action; and

(B) in the case of negotiable instruments, only for a negotiable instrument drawn on a financial institution located in the United States or on a foreign branch of such an institution.

(c)(1) An amount held by the disbursing official that is available for expenditure may be used to carry out subsection (a) of this section with the approval of the head of the agency having jurisdiction over the amount.

(2) The head of an agency having jurisdiction over a disbursing official may offset, within the same fiscal year, a deficiency resulting from a transaction under subsection (a) of this section with a gain from a transaction under subsection (a). A gain in the account of a disbursing official not used to offset deficiencies under subsection (a) shall be deposited in the Treasury as miscellaneous receipts.

(3) The amount of any deficiency resulting from cashing a check for a dependent under subsection (b)(3), including any charges assessed against the disbursing official by a financial institution for insufficient funds to pay the check, may be offset from the pay of the dependent's sponsor.

(4) Amounts necessary to adjust for deficiencies in the account of a disbursing official because of transactions under subsection (a) of this section are authorized to be appropriated.

(d) The Secretary of the Treasury and, with the approval of the Secretary, the head of an agency having jurisdiction over a disbursing official, may issue regulations to carry out this section. However, under conditions the Secretary decides are necessary, the Secretary may delegate to the head of an agency the authority to issue regulations applying to a disbursing official that is an officer or employee of the agency.

(e) Regulations prescribed under subsection (d) shall include regulations that define the terms ''dependent'' and ''sponsor'' for the purposes of this section. In the regulations, the term ''dependent'', with respect to a member of a uniformed service, shall have the meaning given that term in section 401 of title 37.

(f) With respect to automated teller machines on naval vessels, the authority of a disbursing official of the United States Government under subsection (a) also includes the following:

(1) The authority to provide operating funds to the automated teller machines.

(2) The authority to accept, for safekeeping, deposits and transfers of funds made through the automated teller machines.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 957; Pub. L. 104–106, div. A, title X, § 1090, Feb. 10, 1996, 110 Stat. 459; Pub. L. 104–201, div. A, title X, § 1011, Sept. 23, 1996, 110 Stat. 2635; Pub. L. 106–65, div. A, title III, § 372, Oct. 5, 1999, 113 Stat. 580; Pub. L. 108–136, div. A, title XII, § 1224, Nov. 24, 2003, 117 Stat. 1653.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3342(a)	31:492a(less 1st sentence words between 2d–7th commas, last sentence).	Dec. 23, 1944, ch. 716, §§ 1–3, 58 Stat. 921; restated June 16, 1953, ch. 115, 67 Stat. 61.
3342(b)	31:492a(1st sentence words between 2d–7th commas).	
3342(c)(1)	31:492a(last sentence).	
3342(c)(2), (3).	31:492b.	
3342(d)	31:492c.	

In the section, the words ''disbursing official'' are substituted for ''disbursing officers'' for clarity and consistency in the revised title.

In subsection (a), the words ''negotiable instruments'' are substituted for ''checks, drafts, bills of exchange, and other instruments'' for clarity and consistency. Before clause (1), the words ''Subject to regulations promulgated pursuant to sections 492a–492c of this title'' are omitted as unnecessary. In clause (3), before subclause (A), the words ''disbursing officers in foreign countries are also authorized . . . to'' are omitted because of the restatement. The word ''Treasury'' is substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words ''person

who is'' are omitted as surplus. In subclause (B), the word ''payee'' is substituted for ''person to whose order they are drawn'' to eliminate unnecessary words. The words ''who is a United States citizen'' are added for clarity.

Subsection (b), before clause (1), is added because of the restatement. In clause (2), the words ''the accommodation of'' are omitted as surplus. The word ''personnel'' is substituted for ''members of the Armed Forces and civilian personnel'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the United States Code. In clause (3), the words ''of the Armed Forces of the United States . . . institutions operated by the Veterans' Administration and other'' are omitted as surplus.

In subsection (c)(2), the words ''For the purposes of this section'' are omitted because of the restatement. The words ''in the accounts of such disbursing officers'' are omitted as unnecessary. The words ''resulting from a transaction under subsection (a) of this section'' are added for clarity. The words ''not used to offset deficiencies from transactions under subsection (a)'' are substituted for ''resulting from operations permitted by sections 492a to 492c of this title'' for clarity and consistency.

Subsection (c)(3) is substituted for 31:492b(2d sentence) to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

In subsection (d), the words ''rules and . . . governing the disbursing officers under their respective jurisdictions, as may be deemed necessary or proper . . . the purposes of'' are omitted as surplus. The words ''under conditions the Secretary decides are necessary'' are substituted for ''subject to such terms and conditions as he may prescribe'' for clarity and consistency. The words ''and exercise the function of disbursement pursuant to a delegation by the Secretary of the Treasury'' are omitted as unnecessary.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–136, §1224(b)(1), substituted ''only for the following:'' for ''only for—'' in introductory provisions.

Subsec. (b)(1). Pub. L. 108–136, §1224(b)(2), (5), substituted ''An'' for ''an'' and period for semicolon at end.

Subsec. (b)(2). Pub. L. 108–136, §1224(b)(3), (5), substituted ''Personnel'' for ''personnel'' and period for semicolon at end.

Subsec. (b)(3) to (5). Pub. L. 108–136, §1224(b)(4), (5), substituted ''A'' for ''a'' and period for semicolon at end.

Subsec. (b)(6). Pub. L. 108–136, §1224(b)(3), (6), substituted ''Personnel'' for ''personnel'' and period for ''; or''.

Subsec. (b)(7). Pub. L. 108–136, §1224(b)(4), (7), substituted ''A'' for ''a'' and ''1752(1)))'' for ''1752(1))''.

Subsec. (b)(8). Pub. L. 108–136, §1224(a), added par. (8).

1999—Subsec. (f). Pub. L. 106–65 added subsec. (f).

1996—Subsec. (b)(3). Pub. L. 104–201, §1011(1), substituted a semicolon for the period at end.

Pub. L. 104–106, §1090(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4) to (6). Pub. L. 104–106, §1090(a)(1), redesignated pars. (3) to (5) as (4) to (6), respectively.

Subsec. (b)(7). Pub. L. 104–201, §1011(2)–(4), added par. (7).

Subsec. (c)(3), (4). Pub. L. 104–106, §1090(b), added par. (3) and redesignated former par. (3) as (4).

Subsec. (e). Pub. L. 104–106, §1090(c), added subsec. (e).

§ 3343. Check forgery insurance fund

(a) The Department of the Treasury has a special deposit revolving fund, the ''Check Forgery Insurance Fund''. Necessary amounts are hereafter appropriated to the Fund out of any moneys in the Treasury not otherwise appropriated, and shall remain available until expended to make the payments required or authorized under this section. The Fund consists of amounts—

(1) appropriated to the Fund; and

(2) received under subsection (d) of this section.

(b) The Secretary of the Treasury shall pay from the Fund to a payee or special endorsee of a check drawn on the Treasury or a depositary designated by the Secretary the amount of the check without interest if in the determination of the Secretary the payee or special endorse[1] establishes that—

(1) the check was lost or stolen without the fault of the payee or a holder that is a special endorsee and whose endorsement is necessary for further negotiation;

(2) the check was negotiated later and paid by the Secretary or a depositary on a forged endorsement of the payee's or special endorsee's name; and

(3) the payee or special endorsee has not participated in any part of the proceeds of the negotiation or payment.

(c) Notwithstanding section 1306 of this title, a check drawn on a designated depositary may be paid in the currency of a foreign country when the appropriate accountable official authorizes payment in that currency.

(d) The Secretary shall deposit immediately to the credit of the Fund an amount recovered from a forger or a transferee or party on the check. The Secretary may use amounts in the Fund to reimburse payment certifying or authorizing agencies for any payment that the Secretary determines would otherwise have been payable from the Fund, and may reimburse certifying or authorizing agencies with amounts recovered because of payee nonentitlement. However, currency of a foreign country recovered because of a forged check drawn on a designated depositary shall be credited to the Fund or to the foreign currency fund that was charged when payment was made under subsection (b) of this section to the payee or special endorsee.

(e) The Secretary may waive any provision of this section as may be necessary to ensure that claimants receive timely payments.

(f) Under such conditions as the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may redelegate those duties and powers to officers or employees of the agency.

(g) This section does not relieve—

(1) a forger from civil or criminal liability; or

(2) a transferee or party on a check after the forgery from liability—

(A) on the express or implied warranty of prior endorsements of the transferee or party; or

(B) to refund amounts to the Secretary.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 957; Pub. L. 104–134, title III, §31001(x)(3), Apr. 26, 1996, 110 Stat. 1321–377.)

[1] So in original. Probably should be ''endorsee''.

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3343(a)	31:561.	Nov. 21, 1941, ch. 489, §§1–3, 55 Stat. 777.
3343(b)	31:562. 31:563a(1st sentence).	Nov. 21, 1941, ch. 489, 55 Stat. 777, §4; added Dec. 22, 1974, Pub. L. 93–539, §1(b), 88 Stat. 1738.
3343(c)	31:563a(2d sentence).	
3343(d)	31:563(words after 3d comma). 31:563a(last sentence).	
3343(e)	31:563(words before 3d comma).	

Subsection (a) is substituted for 31:561 for clarity and consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the text of 31:563a(1st sentence) is omitted because of section 321 of the revised title. Before clause (1), the word ''Secretary'' is substituted for ''Treasurer of the United States'' before ''is authorized and directed'' in 31:562 because of the source provisions restated in section 321(c) of the revised title. The words ''prior to reclamation'' and ''heretofore or hereafter'' are omitted as unnecessary. The words ''Treasury or a depositary designated by the Secretary'' are substituted for ''Treasurer of the United States'' before ''has been lost or stolen'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280) and for consistency in the revised title. The words ''it is established'' are omitted as unnecessary. In clause (2), the words ''Secretary or a depositary'' are substituted for ''Treasurer'' for consistency. In clause (3), the words ''either directly or indirectly'' are omitted as surplus.

In subsection (c), the words ''drawn on a designated depositary'' are added because of the restatement.

In subsection (d), the words ''The Secretary shall deposit immediately to the credit of the Fund amounts recovered from a forger'' are substituted for 31:563(words after 3d comma) to eliminate unnecessary words. The words ''The liability and restoration provisions of section 563 of this title shall apply with respect to checks drawn on designated depositaries'' in 31:563a(last sentence) are omitted as unnecessary because of the restatement. The words ''because of a forged check drawn on a designated depositary'' are added for clarity. The words ''credited to'' are substituted for ''used, as required, to reimburse'' for clarity and to eliminate unnecessary words. The word ''payment'' is substituted for ''settlement'' for consistency. The words ''under subsection (b) of this section'' are added for clarity.

In subsection (e), the word ''Secretary'' is substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321(c) of the revised title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, §31001(x)(3)(A), amended second sentence generally. Prior to amendment, second sentence read as follows: ''Amounts may be appropriated to the Fund.''

Subsec. (b). Pub. L. 104–134, §31001(x)(3)(B)(i), inserted ''in the determination of the Secretary the payee or special endorse establishes that'' after ''without interest if'' in introductory provisions.

Subsec. (b)(2) to (4). Pub. L. 104–134, §31001(x)(3)(B)(ii)–(iv), inserted ''and'' at end of par. (2), substituted period for ''; and'' at end of par. (3), and struck out par. (4) which read as follows: ''recovery from the forger, a transferee, or a party on the check after the forgery has been or may be delayed or unsuccessful.''

Subsec. (d). Pub. L. 104–134, §31001(x)(3)(C), inserted after first sentence ''The Secretary may use amounts in the Fund to reimburse payment certifying or authorizing agencies for any payment that the Secretary determines would otherwise have been payable from the Fund, and may reimburse certifying or authorizing agencies with amounts recovered because of payee nonentitlement.''

Subsecs. (e) to (g). Pub. L. 104–134, §31001(x)(3)(D), (E), added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

AVAILABILITY OF FUND

Pub. L. 108–447, div. H, title II, §220(b), Dec. 8, 2004, 118 Stat. 3242, provided that: ''The Check Forgery Insurance Fund (31 U.S.C. 3343) shall be available to fund amounts relating to the payment of items listed in 31 U.S.C. 3333(a)(1), as amended above [Pub. L. 108–447, §220(a)(1)], prior to the enactment of this Act [Dec. 8, 2004].''

CHAPTER 35—ACCOUNTING AND COLLECTION

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AMENDMENTS

2008—Pub. L. 110–417, [div. A], title X, § 1061(c)(3), Oct. 14, 2008, 122 Stat. 4613, struck out item 3557 ''Expedited action in protests for public-private competitions'', as added by Pub. L. 110–161.

Pub. L. 110–181, div. A, title III, § 326(b)(2), Jan. 28, 2008, 122 Stat. 63, added item 3557 ''Expedited action in protests of public-private competitions''.

2007—Pub. L. 110–161, div. D, title VII, § 739(c)(1)(B)(ii), Dec. 26, 2007, 121 Stat. 2031, added item 3557.

2001—Pub. L. 107–107, div. A, title VIII, § 831(a)(2), Dec. 28, 2001, 115 Stat. 1188, added subchapter VI heading and items 3561 to 3567.

2000—Pub. L. 106–531, § 3(c), Nov. 22, 2000, 114 Stat. 2539, added item 3516.

1996—Pub. L. 104–316, title I, § 115(f)(2), Oct. 19, 1996, 110 Stat. 3834, struck out item 3531 ''Property returns''.

1990—Pub. L. 101–576, title III, §§ 301(b), 303(f), Nov. 15, 1990, 104 Stat. 2848, 2852, substituted ''and other financial management reports and plans'' for ''systems'' in item 3512 and added item 3515.

1984—Pub. L. 98–369, div. B, title VII, § 2741(b), July 18, 1984, 98 Stat. 1203, added subchapter V heading and items 3551 to 3556.

SUBCHAPTER I—GENERAL

§ 3501. Definition

In this chapter, ''executive agency'' does not include (except in section 3513 and subchapter VI[1] of this title) a corporation, agency, or instrumentality subject to chapter 91 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 959; Pub. L. 107–107, div. A, title VIII, § 831(c), Dec. 28, 2001, 115 Stat. 1189.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3501	31:65a.	Sept. 12, 1950, ch. 946, § 118, 64 Stat. 837; Aug. 1, 1956, ch. 814, § 2(c), 70 Stat. 783.

The words ''As used . . . the term'' are omitted as surplus. The words ''means any executive department or independent establishment in the executive branch of the Government'' are omitted because of section 102 of the revised title. The reference to 31:66d is unnecessary because the defined term is not used in the restatement of 31:66d in section 3514 of the revised title. The text of 31:65a(words after 4th comma) is omitted as unnecessary because of 39:410.

AMENDMENTS

2001—Pub. L. 107–107 inserted ''and subchapter VI'' after ''section 3513''.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–289, § 1, Nov. 7, 2002, 116 Stat. 2049, provided that: ''This Act [amending section 3515 of this title and enacting provisions set out as a note under section 3515 of this title] may be cited as the 'Accountability of Tax Dollars Act of 2002'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–531, § 1, Nov. 22, 2000, 114 Stat. 2537, provided that: ''This Act [enacting section 3516 of this title, amending sections 1116, 3515, and 3521 of this title, and enacting provisions set out as notes under sections 1116 and 3516 of this title] may be cited as the 'Reports Consolidation Act of 2000'.''

SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

§ 3511. Prescribing accounting requirements and developing accounting systems

(a) The Comptroller General shall prescribe the accounting principles, standards, and requirements that the head of each executive agency shall observe. Before prescribing the principles, standards, and requirements, the Comptroller General shall consult with the Secretary of the Treasury and the President on their accounting, financial reporting, and budgetary needs, and shall consider the needs of the heads of the other executive agencies.

(b) Requirements prescribed under subsection (a) of this section shall—

(1) provide for suitable integration between the accounting process of each executive agency and the accounting of the Department of the Treasury;

(2) allow the head of each agency to carry out section 3512 of this title; and

(3) provide a method of—

(A) integrated accounting for the United States Government;

(B) complete disclosure of the results of the financial operations of each agency and the Government; and

(C) financial information and control the President and Congress require to carry out their responsibilities.

(c) Consistent with subsections (a) and (b) of this section—

(1) the authority of the Comptroller General continues under section 121(b) of title 40; and

(2) the Comptroller General may prescribe the forms, systems, and procedures that the judicial branch of the Government (except the Supreme Court) shall observe.

(d) The Comptroller General, the Secretary, and the President shall conduct a continuous program for improving accounting and financial reporting in the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 959; Pub. L. 107–217, § 3(h)(5), Aug. 21, 2002, 116 Stat. 1299.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3511(a)	31:66(a)(1st sentence words before last comma).	Sept. 12, 1950, ch. 946, §§ 111(f), 112(a), 64 Stat. 835; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085.
3511(b)	31:66(a)(1st sentence words after last comma, 2d sentence).	
3511(c)	31:49	June 10, 1921, ch. 18, § 309, 42 Stat. 25.
	31:66(a)(3d, last sentences).	
3511(d)	31:65(f).	

[1] So in original.

In the section, the words ''the head of'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''of the United States'' are omitted as surplus. The word ''President'' is substituted for ''Director of the Office of Management and Budget'' because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) redesignated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President.

In subsection (b)(3), the words ''as a whole'' and ''respective'' are omitted as surplus.

Subsection (c)(2) is substituted for 31:49 and the words ''and, to the extent he deems necessary, the authority vested in him by section 49 of this title'' in 31:66(a) for clarity and consistency. H. Rept. 2556, 81st Cong. (1950), states that the Comptroller General will be able to prescribe appropriation and fund accounting systems under 31:49 ''in terms of principles, standards and related requirements rather than in terms of detailed forms and procedures''. The reference to the judicial branch covers authority that the Comptroller General was given under 31:49 that applies to departments and establishments except the Supreme Court that was not superseded by the source provisions restated in subsection (a) of this section.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–217 substituted ''section 121(b) of title 40'' for ''section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b))''.

ADOPTION OF CAPITAL ACCOUNTING STANDARDS

Pub. L. 101–576, title III, § 307, Nov. 15, 1990, 104 Stat. 2855, provided that: ''No capital accounting standard or principle, including any human capital standard or principle, shall be adopted for use in an executive department or agency until such standard has been reported to the Congress and a period of 45 days of continuous session of the Congress has expired.''

§ 3512. Executive agency accounting and other financial management reports and plans

(a)(1) The Director of the Office of Management and Budget shall prepare and submit to the appropriate committees of the Congress a financial management status report and a governmentwide 5-year financial management plan.

(2) A financial management status report under this subsection shall include—

(A) a description and analysis of the status of financial management in the executive branch;

(B) a summary of the most recently completed financial statements—

(i) of Federal agencies under section 3515 of this title; and

(ii) of Government corporations;

(C) a summary of the most recently completed financial statement audits and reports—

(i) of Federal agencies under section 3521(e) and (f) of this title; and

(ii) of Government corporations;

(D) a summary of reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97–255);

(E) a listing of agencies whose financial management systems do not comply substantially with the requirements of Section[1] 3(a)[2] the Federal Financial Management Improvement Act of 1996, and a summary statement of the efforts underway to remedy the noncompliance; and

(F) any other information the Director considers appropriate to fully inform the Congress regarding the financial management of the Federal Government.

(3)(A) A governmentwide 5-year financial management plan under this subsection shall describe the activities the Director, the Deputy Director for Management, the Controller of the Office of Federal Financial Management, and agency Chief Financial Officers shall conduct over the next 5 fiscal years to improve the financial management of the Federal Government.

(B) Each governmentwide 5-year financial management plan prepared under this subsection shall—

(i) describe the existing financial management structure and any changes needed to establish an integrated financial management system;

(ii) be consistent with applicable accounting principles, standards, and requirements;

(iii) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy, consistency, and timeliness of financial information;

(iv) identify and make proposals to eliminate duplicative and unnecessary systems, including encouraging agencies to share systems which have sufficient capacity to perform the functions needed;

(v) identify projects to bring existing systems into compliance with the applicable standards and requirements;

(vi) contain milestones for equipment acquisitions and other actions necessary to implement the 5-year plan consistent with the requirements of this section;

(vii) identify financial management personnel needs and actions to ensure those needs are met;

(viii) include a plan for ensuring the annual audit of financial statements of executive agencies pursuant to section 3521(h) of this title; and

(ix) estimate the costs of implementing the governmentwide 5-year plan.

(4)(A) Not later than 15 months after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall submit the first financial management status report and governmentwide 5-year financial management plan under this subsection to the appropriate committees of the Congress.

(B)(i) Not later than January 31 of each year thereafter, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress a financial management status report and a revised governmentwide 5-year financial management plan to cover the succeeding 5 fiscal years, including a

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be followed by ''of''. See References in Text note below.

report on the accomplishments of the executive branch in implementing the plan during the preceding fiscal year.

(ii) The Director shall include with each revised governmentwide 5-year financial management plan a description of any substantive changes in the financial statement audit plan required by paragraph (3)(B)(viii), progress made by executive agencies in implementing the audit plan, and any improvements in Federal Government financial management related to preparation and audit of financial statements of executive agencies.

(5) Not later than 30 days after receiving each annual report under section 902(a)(6) of this title, the Director shall transmit to the Chairman of the Committee on Government Operations of the House of Representatives and the Chairman of the Committee on Governmental Affairs of the Senate a final copy of that report and any comments on the report by the Director.

(b) The head of each executive agency shall establish and maintain systems of accounting and internal controls that provide—

(1) complete disclosure of the financial results of the activities of the agency;

(2) adequate financial information the agency needs for management purposes;

(3) effective control over, and accountability for, assets for which the agency is responsible, including internal audit;

(4) reliable accounting results that will be the basis for—

(A) preparing and supporting the budget requests of the agency;

(B) controlling the carrying out of the agency budget; and

(C) providing financial information the President requires under section 1104(e) of this title; and

(5) suitable integration of the accounting of the agency with the central accounting and reporting responsibilities of the Secretary of the Treasury under section 3513 of this title.

(c)(1) To ensure compliance with subsection (b)(3) of this section and consistent with standards the Comptroller General prescribes, the head of each executive agency shall establish internal accounting and administrative controls that reasonably ensure that—

(A) obligations and costs comply with applicable law;

(B) all assets are safeguarded against waste, loss, unauthorized use, and misappropriation; and

(C) revenues and expenditures applicable to agency operations are recorded and accounted for properly so that accounts and reliable financial and statistical reports may be prepared and accountability of the assets may be maintained.

(2) Standards the Comptroller General prescribes under this subsection shall include standards to ensure the prompt resolution of all audit findings.

(d)(1) In consultation with the Comptroller General, the Director of the Office of Management and Budget—

(A) shall establish by December 31, 1982, guidelines that the head of each executive agency shall follow in evaluating the internal accounting and administrative control systems of the agency to decide whether the systems comply with subsection (c) of this section; and

(B) may change a guideline when considered necessary.

(2) By December 31 of each year (beginning in 1983), the head of each executive agency, based on an evaluation conducted according to guidelines prescribed under paragraph (1) of this subsection, shall prepare a statement on whether the systems of the agency comply with subsection (c) of this section, including—

(A) if the head of an executive agency decides the systems do not comply with subsection (c) of this section, a report identifying any material weakness in the systems and describing the plans and schedule for correcting the weakness; and

(B) a separate report on whether the accounting system of the agency conforms to the principles, standards, and requirements the Comptroller General prescribes under section 3511(a) of this title.

(3) The head of each executive agency shall sign the statement and reports required by this subsection and submit them to the President and Congress. The statement and reports are available to the public, except that information shall be deleted from a statement or report before it is made available if the information specifically is—

(A) prohibited from disclosure by law; or

(B) required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e) To assist in preparing a cost-based budget under section 1108(b) of this title and consistent with principles and standards the Comptroller General prescribes, the head of each executive agency shall maintain the accounts of the agency on an accrual basis to show the resources, liabilities, and costs of operations of the agency. An accounting system under this subsection shall include monetary property accounting records.

(f) The Comptroller General shall—

(1) cooperate with the head of each executive agency in developing an accounting system for the agency; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

(g) The Comptroller General shall review the accounting systems of each executive agency. The results of a review shall be available to the head of the executive agency, the Secretary, and the President. The Comptroller General shall report to Congress on a review when the Comptroller General considers it proper.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 959; Pub. L. 97–452, § 1(12), Jan. 12, 1983, 96 Stat. 2468; Pub. L. 101–576, title III, § 301(a), Nov. 15, 1990, 104 Stat. 2847; Pub. L. 103–272, § 4(f)(1)(J), July 5, 1994, 108 Stat. 1362; Pub. L. 104–208, div. A, title I, § 101(f) [title VIII, § 805(b)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–392.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3512(a)	31:66a(a).	Sept. 12, 1950, ch. 946, §§112(c), 113(a), 64 Stat. 835; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085.
3512(b)	31:66a(c).	Sept. 12, 1950, ch. 946, 64 Stat. 832, §113(c); added Aug. 1, 1956, ch. 814, §2(b), 70 Stat. 782.
3512(c)	31:66(b)(less Treasury Department).	Sept. 12, 1950, ch. 946, §§112(b)(less Treasury Department), 113(b), 64 Stat. 835, 836.
	31:66a(b).	
3512(d)	31:66(c).	

In subsection (a)(3), the words ''funds, property, and other'' are omitted as surplus.

In subsection (a)(4)(C), the word ''President'' is substituted for ''Office of Management and Budget'' because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) redesignated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President.

In subsection (a)(5), the words ''the accounting of the Treasury Department in connection with'' are omitted as surplus.

In subsection (b), the words ''As soon as practicable after August 1, 1956'' are omitted as executed. The words ''with a view'', ''adequate'', and ''as an integral part of the system'' are omitted as surplus.

In subsections (c) and (d), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The word ''considers'' is substituted for ''deemed'' as being more precise.

In subsection (c), the text of 31:66a(b) is omitted as unnecessary. In clause (1), the words ''the head of'' are added for consistency with the revised title and other titles of the United States Code. In clause (2), the words ''under section 3511 of this title'' are substituted for ''by him'' in 31:66(b)(less Treasury Department) for clarity.

In subsection (d), the word ''concerned'' is omitted as surplus. The word ''President'' is substituted for ''Director of the Office of Management and Budget'' because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3512(b)	31 App.:66a(d)(1).	Sept. 12, 1950, ch. 946, 64 Stat. 832, §113(d); added Sept. 8, 1982, Pub. L. 97–255, §2, 96 Stat. 814.
3512(c)(1)	31 App.:66a(d)(2).	
3512(c)(2)(A).	31 App.:66a(d)(3), (4).	
3512(c)(2)(B).	31 App.:66a(b)(last sentence).	Sept. 12, 1950, ch. 946, 64 Stat. 832, §113(b)(last sentence); added Sept. 8, 1982, Pub. L. 97–255, §4, 96 Stat. 815.
3512(c)(3)	31 App.:66a(d)(5).	

In subsections (b)(1) and (c)(1)(A), the words ''the requirements of'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''the head of'' are added for consistency in the revised title and with other titles of the United States Code. The word ''provide'' is omitted as surplus. In clause (B), the word ''all'' is substituted for ''funds, property, and other'' to eliminate unnecessary words.

In subsection (c)(1)(A), the words ''the head of each executive agency shall follow'' are substituted for ''agencies'' for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(2), before clause (A), the words ''beginning in'' are substituted for ''succeeding'' because of the restatement. The words ''on whether the systems of the agency comply with subsection (b) of this section'' are substituted for 31 App.:66a(d)(3)(A) to eliminate unnecessary words. In clause (B), the word ''related'' is omitted as surplus.

In subsection (c)(3)(A), the words ''provision of'' are omitted as surplus.

REFERENCES IN TEXT

The Federal Managers' Financial Integrity Act of 1982, referred to in subsec. (a)(2)(D), is Pub. L. 97–255, Sept. 8, 1982, 96 Stat. 814, which added subsec. (d) to section 66a of former Title 31, Money and Finance. Section 66a of former Title 31 was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as this section. Provisions relating to reports on internal accounting and administrative control systems are restated in subsec. (d)(2) and (3) of this section.

The Federal Financial Management Improvement Act of 1996, referred to in subsec. (a)(2)(E), is Pub. L. 104–208, div. A, title I, §101(f) [title VIII], Sept. 30, 1996, 110 Stat. 3009–314, 3009–389, which is set out as a note under this section. Section 3(a) of the act probably means section 803(a) of the act, which contains requirements relating to financial management systems.

The date of the enactment of this subsection, referred to in subsec. (a)(4)(A), is the date of enactment of Pub. L. 101–576, which added subsec. (a) and was approved Nov. 15, 1990.

AMENDMENTS

1996—Subsec. (a)(2)(E), (F). Pub. L. 104–208 added subpar. (E) and redesignated former subpar. (E) as (F).

1994—Subsec. (c)(1). Pub. L. 103–272, §4(f)(1)(J)(i), substituted ''subsection (b)(3)'' for ''subsection (a)(3)'' in introductory provisions.

Subsec. (d)(1), (2). Pub. L. 103–272, §4(f)(1)(J)(ii), substituted ''subsection (c)'' for ''subsection (b)'' wherever appearing.

1990—Pub. L. 101–576 substituted ''and other financial management reports and plans'' for ''systems'' in section catchline, added subsec. (a), and redesignated former subsecs. (a) to (f) as (b) to (g), respectively.

1983—Subsecs. (b), (c). Pub. L. 97–452 added subsecs. (b) and (c). Former subsecs. (b) and (c) were redesignated (d) and (e), respectively.

Subsecs. (d) to (f). Pub. L. 97–452 redesignated former subsecs. (b) to (d) as (d) to (f), respectively.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SHORT TITLE

This section is popularly known as the ''Federal Managers Financial Integrity Act''.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in

House Document No. 103–7 (in which the requirement to submit statements and reports to Congress under subsection (d)(3) of this section is listed on page 151), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, §1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of this title.

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT

Section 101(f) [title VIII] of Pub. L. 104–208 provided that:

''SEC. 801. SHORT TITLE[.]

''This title may be cited as the 'Federal Financial Management Improvement Act of 1996.'

''SEC. 802. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds the following:

''(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

''(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

''(A) identify costs fully;

''(B) reflect the total liabilities of congressional actions; and

''(C) accurately report the financial condition of the Federal Government.

''(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

''(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the government and reduce the federal Government's ability to address vital public needs adequately.

''(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

''(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the 'FASAB') has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASAB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decision making by financial managers and the Congress.

''(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

''(b) PURPOSE[.]—The purposes of this Act [title] are to—

''(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

''(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

''(3) increase the accountability and credibility of federal [sic] financial management;

''(4) improve performance, productivity and efficiency of Federal Government financial management;

''(5) establish financial management systems to support controlling the cost of Federal Government;

''(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat 2838) [see Short Title of 1990 Amendment note set out under section 501 of this title], the Government Performance and Results Act of 1993 (Public Law 103–62[;] 107 Stat. 285) [see Short Title of 1993 Amendment note set out under section 1101 of this title] and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410) [see Short Title of 1994 Amendment note set out under section 3301 of this title]; and

''(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

''SEC. 803. IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

''(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

''(b) AUDIT COMPLIANCE FINDING.—

''(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

''(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

''(A) the entity or organization responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

''(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

''(i) the nature and extent of the noncompliance including areas in which there is substantial but not full compliance;

''(ii) the primary reason or cause of the noncompliance;

''(iii) the entity or organization responsible for the non-compliance [sic]; and

''(iv) any relevant comments from any responsible officer or employee; and

''(C) a statement with respect to the recommended remedial actions and the time frames to implement such actions.

''(c) COMPLIANCE IMPLEMENTATION.—

''(1) DETERMINATION.—No later than the date described under paragraph (2), the Head of an agency shall determine whether the financial management systems of the agency comply with the requirements of subsection (a). Such determination shall be based on—

''(A) a review of the report on the applicable agency-wide audited financial statement;

''(B) any other information the Head of the agency considers relevant and appropriate.

''(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 120 days after the earlier of—

''(A) the date of the receipt of an agency-wide audited financial statement; or

''(B) the last day of the fiscal year following the year covered by such statement.

''(3) REMEDIATION PLAN.—

''(A) If the Head of an agency determines that the agency's financial management systems do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into substantial compliance.

''(B) If the determination of the head of the agency differs from the audit compliance findings required in subsection (b), the Director shall review such determinations and provide a report on the findings to the appropriate committees of the Congress.

''(4) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into substantial compliance no later than 3 years after the date a determination is made under paragraph (1), unless the agency, with concurrence of the Director—

''(A) determines that the agency's financial management systems cannot comply with the requirements of subsection (a) within 3 years;

''(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

''(C) designates an official of the agency who shall be responsible for bringing the agency's financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

''SEC. 804. REPORTING REQUIREMENTS.

''(a) REPORTS BY THE DIRECTOR.—No later than March 31 of each year, the Director shall submit a report to the Congress regarding implementation of this Act [title]. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

''(b) REPORTS BY THE INSPECTOR GENERAL[.]—Each Inspector General who prepares a report under section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) shall report to Congress instances and reasons when an agency has not met the intermediate target dates established in the remediation plan required under section 3(c) [803(c)]. Specifically the report shall include—

''(1) the entity or organization responsible for the non-compliance [sic];

''(2) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the non-compliance [sic], the primary reason or cause for the failure to comply, and any extenuating circumstances; and

''(3) a statement of the remedial actions needed to comply.

''(c) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United States shall report to the appropriate committees of the Congress concerning—

''(1) compliance with the requirements of section 3(a) of this Act [803(a) of this title], including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

''(2) the adequacy of applicable accounting standards for the Federal Government.

''SEC. 805. CONFORMING AMENDMENTS.

''(a) AUDITS BY AGENCIES.—[Amended section 3521 of this title.]

''(b) FINANCIAL MANAGEMENT STATUS REPORT.—[Amended this section.]

''(c) INSPECTOR GENERAL ACT OF 1978.—[Amended section 5 of the Inspector General Act of 1978, set out in the Appendix to Title 5, Government Organization and Employees.]

''SEC. 806. DEFINITIONS.

''For purposes of this title:

''(1) AGENCY.—The term 'agency' means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(3) FEDERAL ACCOUNTING STANDARDS.—The term 'Federal accounting standards' means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code.

''(4) FINANCIAL MANAGEMENT SYSTEMS.—The term 'financial management systems' includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

''(5) FINANCIAL SYSTEM.—The term 'financial system' includes an information system, comprised of one or more applications, that is used for—

''(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

''(B) supporting financial planning or budgeting activities;

''(C) accumulating and reporting costs information; or

''(D) supporting the preparation of financial statements.

''(6) MIXED SYSTEM.—The term 'mixed system' means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

''SEC. 807. EFFECTIVE DATE.

''This title shall take effect for the fiscal year ending September 30, 1997.

''SEC. 808. REVISION OF SHORT TITLES.

''(a) [Amended section 4001 of Pub. L. 104–106, set out as a note under section 251 of Title 41, Public Contracts.]

''(b) [Amended section 5001 of Pub. L. 104–106, div. E, Feb. 10, 1996, 110 Stat. 679, subsequently repealed by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304.]

''(c) Any reference in any law, regulation, document, record, or other paper of the United States to the Federal Acquisition Reform Act of 1996 or to the Information Technology Management Reform Act of 1996 shall be considered to be a reference to the Clinger-Cohen Act of 1996 [see Short Title of 1996 Amendment note set out under 41 U.S.C. 251].''

§ 3513. Financial reporting and accounting system

(a) The Secretary of the Treasury shall prepare reports that will inform the President, Congress, and the public on the financial operations of the United States Government. The reports shall include financial information the President requires. The head of each executive agency shall give the Secretary reports and information on the financial conditions and operations of the agency the Secretary requires to prepare the reports.

(b) The Secretary may—

(1) establish facilities necessary to prepare the reports; and

(2) reorganize the accounting functions and procedures and financial reports of the Department of the Treasury to develop an effective and coordinated system of accounting and fi-

nancial reporting in the Department that will integrate the accounting results for the Department and be the operating center for consolidating accounting results of other executive agencies with accounting results of the Department.

(c) The Comptroller General shall—

(1) cooperate with the Secretary in developing and establishing the reporting and accounting system under this section; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 960.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3513(a)	31:66b(a).	Sept. 12, 1950, ch. 946, § 114(a), 64 Stat. 836; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085.
3513(b)	31:66b(b).	Sept. 12, 1950, ch. 946, §§ 112(b)(related to Treasury Department), 114(b), (c), 64 Stat. 835, 836.
3513(c)	31:66(b)(related to Treasury Department). 31:66b(c).	

In subsection (a), the words ''the results of'' are omitted as surplus. The words ''The report'' are substituted for ''*Provided*, That'' for clarity. The word ''information'' is substituted for ''data'' for consistency. The word ''President'' is substituted for ''Director of the Office of Management and Budget'' because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) redesignated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words ''in connection with the preparation of the Budget or for other purposes of the Office'' are omitted as unnecessary. The words ''The head of'' are added for consistency in the revised title and with other titles of the United States Code. The words ''by rules and regulations'' are omitted as unnecessary because of section 321(b) of this title. The words ''to prepare the reports'' are substituted for ''for the effective performance of his responsibilities under this section'' for clarity and to eliminate unnecessary words.

In subsection (b)(2), the words ''install, revise, or eliminate'', ''the several bureaus and offices of'', ''with such concentration of accounting and reporting as is necessary'', and ''the activities of'' are omitted as surplus. The word ''be'' is substituted for ''provide'' for clarity. The text of 31:66b(b)(last sentence) is omitted as unnecessary because of section 321 of this title.

In subsection (c), before clause (1), the text of 31:66b(c) is omitted as unnecessary. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. In clause (1), the word ''Secretary'' is substituted for ''Treasury Department'' in 31:66(b)(related to Treasury Department) for consistency. The word ''central'' is omitted as surplus. In clause (2), the word ''considers'' is substituted for ''deemed'' as being more precise. The words ''under section 3511 of this title'' are substituted for ''by him'' for clarity.

§ 3514. Discontinuing certain accounts maintained by the Comptroller General

The Comptroller General may discontinue an agency appropriation, expenditure, limitation, receipt, or personal ledger account maintained by the Comptroller General when the Comptroller General believes that the accounting system and internal controls of the agency will allow the Comptroller General to carry out the functions related to the account.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 960.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3514	31:66d.	Sept. 12, 1950, ch. 946, § 116, 64 Stat. 837.

The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The word ''agency'' is substituted for ''executive, legislative, and judicial agencies'' because of sections 101, 102, and 3501 of the revised title. The word ''properly'' is omitted as surplus.

§ 3515. Financial statements of agencies

(a)(1)[1] Except as provided in subsection (e), not later than March 1 of 2003 and each year thereafter, the head of each covered executive agency shall prepare and submit to the Congress and the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

(b) Each audited financial statement of a covered executive agency under this section shall reflect—

(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

(2) results of operations of those offices, bureaus, and activities.

(c) The Director of the Office of Management and Budget shall identify components of covered executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of covered executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

(e)(1) The Director of the Office of Management and Budget may exempt a covered executive agency, except an agency described in section 901(b), from the requirements of this section with respect to a fiscal year if—

(A) the total amount of budget authority available to the agency for the fiscal year does not exceed $25,000,000; and

(B) the Director determines that requiring an annual audited financial statement for the agency with respect to the fiscal year is not warranted due to the absence of risks associated with the agency's operations, the agency's demonstrated performance, or other factors that the Director considers relevant.

(2) The Director shall annually notify the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate of each agency

[1] So in original. No par. (2) has been enacted

the Director has exempted under this subsection and the reasons for each exemption.

(f) The term ''covered executive agency''—

(1) means an executive agency that is not required by another provision of Federal law to prepare and submit to the Congress and the Director of the Office of Management and Budget an audited financial statement for each fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency; and

(2) does not include a corporation, agency, or instrumentality subject to chapter 91 of this title.

(Added Pub. L. 101–576, title III, § 303(a)(1), Nov. 15, 1990, 104 Stat. 2849; amended Pub. L. 103–356, title IV, § 405(a), Oct. 13, 1994, 108 Stat. 3415; Pub. L. 106–531, § 4(a), Nov. 22, 2000, 114 Stat. 2539; Pub. L. 107–289, § 2(a), Nov. 7, 2002, 116 Stat. 2049.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–289, § 2(a)(1), substituted ''(1) Except as provided in subsection (e), not later'' for ''Not later'', ''2003'' for ''1997'', and ''each covered executive agency'' for ''each executive agency identified in section 901(b) of this title''.

Subsec. (b). Pub. L. 107–289, § 2(a)(2), substituted ''a covered executive agency'' for ''an executive agency'' in introductory provisions.

Subsecs. (c), (d). Pub. L. 107–289, § 2(a)(3), substituted ''covered executive agencies'' for ''executive agencies''.

Subsecs. (e), (f). Pub. L. 107–289, § 2(a)(4), added subsecs. (e) and (f).

2000—Subsec. (a). Pub. L. 106–531, § 4(a)(1), inserted ''Congress and the'' before ''Director''.

Subsecs. (e) to (h). Pub. L. 106–531, § 4(a)(2), struck out subsecs. (e) to (h) which read as follows:

''(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

''(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

''(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

''(1) each revolving fund and trust fund of the agency; and

''(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

''(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.''

1994—Pub. L. 103–356 amended section generally, revising and restating as subsecs. (a) to (h) provisions of former subsecs. (a) to (e) which required agency preparation and submission of annual financial statements, provided for form and contents of such statements, and defined term ''commercial functions'' for purposes of section.

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE; WAIVER OF REQUIREMENT; RESOLUTION APPROVING DESIGNATION OF AGENCIES

Section 303(a)(2), (3), (b) of Pub. L. 101–576 provided that section 3515(e) of this title, as added by section 303(a)(1) of Pub. L. 101–576, would take effect on date on which a resolution was passed by Congress and approved by the President, provided that Director of Office of Management and Budget could, for fiscal year 1991, waive application of section 3515(a) of this title with respect to any revolving fund, trust fund, or account of an executive agency, and described and specified procedures for passage of the resolution.

WAIVER AUTHORITY

Pub. L. 107–289, § 2(b), Nov. 7, 2002, 116 Stat. 2050, provided that:

''(1) IN GENERAL.—The Director of the Office of Management and Budget may waive the application of all or part of section 3515(a) of title 31, United States Code, as amended by this section, for financial statements required for the first 2 fiscal years beginning after the date of the enactment of this Act [Nov. 7, 2002] for an agency described in paragraph (2) of this subsection.

''(2) AGENCIES DESCRIBED.—An agency referred to in paragraph (1) is any covered executive agency (as that term is defined by section 3515(f) of title 31, United States Code, as amended by subsection (a) of this section) that is not an executive agency identified in section 901(b) of title 31, United States Code.''

REPORT ON SUBSTANTIAL COMMERCIAL FUNCTIONS

Section 303(c) of Pub. L. 101–576 directed Director of Office of Management and Budget, not later than 180 days after Nov. 15, 1990, to determine and report to Congress on which executive agencies or parts thereof perform substantial commercial functions for which financial statements can be prepared practicably under 31 U.S.C. 3515.

PILOT PROJECT FOR PREPARATION AND AUDIT OF FINANCIAL STATEMENTS; REPORT TO CONGRESS

Section 303(d), (e) of Pub. L. 101–576 directed specific departments, administrations, and services by Mar. 31 of 1991, 1992, and 1993 to prepare and submit to Director of Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities, required each financial statement to be audited in accordance with 31 U.S.C. section 3521(e), (f), (g), and (h), and directed Director of Office of Management and Budget, not later than June 30, 1993, to report to Congress on the financial statements including an analysis of the accuracy of the data, the difficulties encountered in preparing the data, the benefits derived from preparation of the financial statements, and the cost associated with preparing and auditing the financial statements.

§ 3516. Reports consolidation

(a)(1) With the concurrence of the Director of the Office of Management and Budget, the head of an executive agency may adjust the frequency and due dates of, and consolidate into an annual report to the President, the Director of the Office of Management and Budget, and Congress any statutorily required reports described in

paragraph (2). Such a consolidated report shall be submitted to the President, the Director of the Office of Management and Budget, and to appropriate committees and subcommittees of Congress not later than 150 days after the end of the agency's fiscal year.

(2) The following reports may be consolidated into the report referred to in paragraph (1):

(A) Any report by an agency to Congress, the Office of Management and Budget, or the President under section 1116, this chapter, and chapters 9, 33, 37, 75, and 91.

(B) The following agency-specific reports:

(i) The biennial financial management improvement plan by the Secretary of Defense under section 2222[1] of title 10.

(ii) The annual report of the Attorney General under section 522 of title 28.

(C) Any other statutorily required report pertaining to an agency's financial or performance management if the head of the agency—

(i) determines that inclusion of that report will enhance the usefulness of the reported information to decision makers; and

(ii) consults in advance of inclusion of that report with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and any other committee of Congress having jurisdiction with respect to the report proposed for inclusion.

(b) A report under subsection (a) that incorporates the agency's program performance report under section 1116 shall be referred to as a performance and accountability report.

(c) A report under subsection (a) that does not incorporate the agency's program performance report under section 1116 shall contain a summary of the most significant portions of the agency's program performance report, including the agency's success in achieving key performance goals for the applicable year.

(d) A report under subsection (a) shall include a statement prepared by the agency's inspector general that summarizes what the inspector general considers to be the most serious management and performance challenges facing the agency and briefly assesses the agency's progress in addressing those challenges. The inspector general shall provide such statement to the agency head at least 30 days before the due date of the report under subsection (a). The agency head may comment on the inspector general's statement, but may not modify the statement.

(e) A report under subsection (a) shall include a transmittal letter from the agency head containing, in addition to any other content, an assessment by the agency head of the completeness and reliability of the performance and financial data used in the report. The assessment shall describe any material inadequacies in the completeness and reliability of the data, and the actions the agency can take and is taking to resolve such inadequacies.

(f) The Secretary of Homeland Security—

(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security;

(2) shall include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting; and

(3) shall design and implement Department-wide management controls that—

(A) reflect the most recent homeland security strategy developed pursuant to section 874(b)(2) of the Homeland Security Act of 2002; and

(B) permit assessment, by the Congress and by managers within the Department, of the Department's performance in executing such strategy.

(Added Pub. L. 106–531, § 3(a), Nov. 22, 2000, 114 Stat. 2537; amended Pub. L. 108–330, § 4(a), Oct. 16, 2004, 118 Stat. 1277.)

REFERENCES IN TEXT

Section 2222 of title 10, referred to in subsec. (a)(2)(B)(i), was repealed by Pub. L. 107–314, div. A, title X, § 1004(h)(1), Dec. 2, 2002, 116 Stat. 2631.

Section 874(b)(2) of the Homeland Security Act of 2002, referred to in subsec. (f)(3)(A), is classified to section 454(b)(2) of Title 6, Domestic Security.

AMENDMENTS

2004—Subsec. (f). Pub. L. 108–330 added subsec. (f).

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9. 2004.

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

AUDIT OPINION AND INTERNAL CONTROLS BY SECRETARY OF HOMELAND SECURITY

Pub. L. 108–330, § 4(b), (c), Oct. 16, 2004, 118 Stat. 1277, provided that:

''(b) IMPLEMENTATION OF AUDIT OPINION REQUIREMENT.—The Secretary of Homeland Security shall include audit opinions in performance and accountability reports under section 3516(f) of title 31, United States Code, as amended by subsection (a), only for fiscal years after fiscal year 2005.

''(c) ASSERTION OF INTERNAL CONTROLS.—The Secretary of Homeland Security shall include in the performance and accountability report for fiscal year 2005 submitted by the Secretary under section 3516(f) of title 31, United States Code, an assertion of the internal controls that apply to financial reporting by the Department of Homeland Security.''

FINDINGS AND PURPOSES

Pub. L. 106–531, § 2, Nov. 22, 2000, 114 Stat. 2537, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) existing law imposes numerous financial and performance management reporting requirements on agencies;

''(2) these separate requirements can cause duplication of effort on the part of agencies and result in uncoordinated reports containing information in a form that is not completely useful to Congress; and

''(3) pilot projects conducted by agencies under the direction of the Office of Management and Budget demonstrate that single consolidated reports provid-

[1] See References in Text note below.

ing an analysis of verifiable financial and performance management information produce more useful reports with greater efficiency.

''(b) PURPOSES.—The purposes of this Act [see Short Title of 2000 Amendment note set out under section 3501 of this title] are—

''(1) to authorize and encourage the consolidation of financial and performance management reports;

''(2) to provide financial and performance management information in a more meaningful and useful format for Congress, the President, and the public;

''(3) to improve the quality of agency financial and performance management information; and

''(4) to enhance coordination and efficiency on the part of agencies in reporting financial and performance management information.''

SPECIAL RULE FOR FISCAL YEARS 2000 AND 2001

Pub. L. 106–531, § 3(b), Nov. 22, 2000, 114 Stat. 2538, provided that: ''Notwithstanding paragraph (1) of section 3516(a) of title 31, United States Code (as added by subsection (a) of this section), the head of an executive agency may submit a consolidated report under such paragraph not later than 180 days after the end of that agency's fiscal year, with respect to fiscal years 2000 and 2001.''

SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

§ 3521. Audits by agencies

(a) Each account of an agency shall be audited administratively before being submitted to the Comptroller General. The head of each agency shall prescribe regulations for conducting the audit and designate a place at which the audit is to be conducted. However, a disbursing official of an executive agency may not administratively audit vouchers for which the official is responsible. With the consent of the Comptroller General, the head of the agency may waive any part of an audit.

(b) The head of an agency may prescribe a statistical sampling procedure to audit vouchers of the agency when the head of the agency decides economies will result from using the procedure. The Comptroller General—

(1) may prescribe the maximum amount of a voucher that may be audited under this subsection; and

(2) in reviewing the accounting system of the agency, shall evaluate the adequacy and effectiveness of the procedure.

(c) A disbursing or certifying official acting in good faith under subsection (b) of this section is not liable for a payment or certification of a voucher not audited specifically because of the procedure prescribed under subsection (b) if the official and the head of the agency carry out diligently collection action the Comptroller General prescribes.

(d) Subsections (b) and (c) of this section do not—

(1) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(2) relieve a disbursing or certifying official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Each financial statement prepared under section 3515 by an agency shall be audited in accordance with applicable generally accepted government auditing standards—

(1) in the case of an agency having an Inspector General appointed under the Inspector General Act of 1978 (5 U.S.C. App.), by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

(2) in any other case, by an independent external auditor, as determined by the head of the agency.

(f) For each audited financial statement required under subsection (a) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency and the Controller of the Office of Federal Financial Management. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

(g) The Comptroller General of the United States—

(1) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

(2) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the agency which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General considers appropriate; and

(3) may audit a financial statement prepared under section 3515 of this title at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this subsection shall be in lieu of the audit otherwise required by subsection (e) of this section. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

(h) Each financial statement prepared by an executive agency for a fiscal year after fiscal year 1991 shall be audited in accordance with this section and the plan required by section 3512(a)(3)(B)(viii) of this title.

(i)(1) If the Government Accountability Office audits any financial statement or related schedule which is prepared under section 3515 by an executive agency (or component thereof) for a fiscal year beginning on or after October 1, 2009, such executive agency (or component) shall reimburse the Government Accountability Office for the cost of such audit, if the Government Accountability Office audited the statement or schedule of such executive agency (or component) for fiscal year 2007.

(2) Any executive agency (or component thereof) that prepares a financial statement under section 3515 for a fiscal year beginning on or after October 1, 2009, and that requests, with the concurrence of the Inspector General of such agency, the Government Accountability Office to conduct the audit of such statement or any related schedule required by section 3521 may reimburse the Government Accountability Office for the cost of such audit.

(3) For the audits conducted under paragraphs (1) and (2), the Government Accountability Of-

fice shall consult prior to the initiation of the audit with the relevant executive agency (or component) and the Inspector General of such agency on the scope, terms, and cost of such audit.

(4) Any reimbursement under paragraph (1) or (2) shall be deposited to a special account in the Treasury and shall be available to the Government Accountability Office for such purposes and in such amounts as are specified in annual appropriations Acts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 961; Pub. L. 101–576, title III, § 304(a), Nov. 15, 1990, 104 Stat. 2852; Pub. L. 103–356, title IV, § 405(b), Oct. 13, 1994, 108 Stat. 3416; Pub. L. 104–208, div. A, title I, § 101(f) [title VIII, § 805(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–392; Pub. L. 106–531, § 4(b), Nov. 22, 2000, 114 Stat. 2539; Pub. L. 110–323, § 6(a), Sept. 22, 2008, 122 Stat. 3547.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3521(a)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:65b.	Sept. 12, 1950, ch. 946, § 119, 64 Stat. 838.
	31:75, 41:21.	July 31, 1894, ch. 174, § 22, 28 Stat. 210.
	31:82.	Aug. 23, 1912, ch. 350, § 1(last par. under heading ''Office of the Comptroller of the Treasury''), 37 Stat. 375.
3521(b)	31:82b–1(a)(1st sentence words before semicolon, last sentence).	Aug. 30, 1964, Pub. L. 88–521, 78 Stat. 700; Jan. 2, 1975, Pub. L. 93–604, § 101, 88 Stat. 1959.
3521(c)	31:82b–1(a)(1st sentence words after semicolon).	
3521(d)	31:82b–1(b).	

In the section, the word ''audit'' is substituted for ''examination'', and the word ''official'' is substituted for ''officer'', for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''Except as otherwise provided'' in 31:82(words before 5th comma) are omitted as unnecessary. The words ''on and after August 23, 1912'' are omitted as executed. The words ''of an agency'' are substituted for ''public'' for clarity and consistency. The words ''preliminary to their audit by the General Accounting Office . . . as contemplated by section 78 of this title'' are omitted as unnecessary. The words ''Comptroller General'' are substituted for ''General Accounting Office'' in 31:75 for consistency. The words ''prepared and'' in 31:82(words between 5th and 6th commas) are omitted as surplus. The words ''by and through the administrative heads of divisions and bureaus'' are omitted because of the authority vested in the heads of agencies. The words ''and pay rolls'' are omitted as being included in ''vouchers''. The text of 31:82(words after 6th comma) is omitted as executed. The text of 31:75(1st par.) is omitted as unnecessary because of section 321(b) of the revised title. The words ''head of each agency'' are substituted for ''head of each executive agency . . . *Provided*, That the same authority is conferred upon the officers responsible for the administrative examination of accounts for legislative and judicial agencies'' in 31:65b and ''heads of the several executive departments and of the proper officers of other Government establishments, not within the jurisdiction of any executive department'' in 31:75 because of sections 101, 102, and 3501 of the revised title. The words ''shall prescribe regulations for conducting the audit'' are substituted for ''It shall also be the duty of . . . to make appropriate rules and regulations to secure a proper administrative examination of all accounts sent to them, as required by section 78 of this title'' for consistency and to eliminate unnecessary words. The words ''and for the execution of other requirements of this chapter insofar as the same relate to the several departments or establishments'' are omitted as unnecessary. The words ''or places, at the seat of government or elsewhere . . . of fiscal officers' accounts'' in 31:65b are omitted as surplus.

In subsection (b), the words ''the Mayor of the District of Columbia'' are omitted as superseded by sections 448(2) and 449 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93–198, 87 Stat. 802, 803).

In subsection (c), the words ''made by him'' are omitted as surplus. The words ''head of the'' are added for consistency. The words ''to recover the illegal, improper, or incorrect payment in accordance with procedures'' are omitted as surplus.

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (e)(1), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (i). Pub. L. 110–323 added subsec. (i).

2000—Subsec. (f). Pub. L. 106–531 struck out ''(1)'' before ''For each audited'', substituted ''subsection (a)'' for ''subsections (a) and (f)'', and struck out par. (2) which read as follows: ''Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.''

1996—Subsec. (f)(1). Pub. L. 104–208 inserted ''and the Controller of the Office of Federal Financial Management'' before period at end of first sentence.

1994—Subsec. (f). Pub. L. 103–356 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''Not later than June 30 following the fiscal year for which a financial statement is submitted under section 3515 of this title by an agency, the person who audits the statement for purpose of subsection (e) shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.''

1990—Subsecs. (e) to (h). Pub. L. 101–576 added subsecs. (e) to (h).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective for fiscal year ending Sept. 30, 1997, see section 101(f) [title VIII, § 807] of Pub. L. 104–208, set out in a Federal Financial Management Improvement note under section 3512 of this title.

AUDITS AND REPORTS OF AGENCY FINANCIAL STATEMENTS

Pub. L. 105–206, title I, § 1103(d), July 22, 1998, 112 Stat. 709, provided that: ''Subject to section 3521(g) of title 31, United States Code—

''(1) the Inspector General of the Department of the Treasury shall, subject to paragraph (2)—

''(A) audit each financial statement in accordance with section 3521(e) of such title; and

''(B) prepare and submit each report required under section 3521(f) of such title; and

''(2) the Treasury Inspector General for Tax Administration shall—

''(A) audit that portion of each financial statement referred to under paragraph (1)(A) that relates to custodial and administrative accounts of the Internal Revenue Service; and

''(B) prepare that portion of each report referred to under paragraph (1)(B) that relates to custodial and administrative accounts of the Internal Revenue Service.''

WAIVER OF REQUIREMENTS

Section 304(b) of Pub. L. 101–576 provided that: ''The Director of the Office of Management and Budget may waive application of subsections (e) and (f) of section 3521 of title 31, United States Code, as amended by this section, to a financial statement submitted by an agency for fiscal years 1990 and 1991.''

TIME LIMIT FOR RESOLVING PENDING AND NEW AUDITS

Pub. L. 96–304, title III, § 305, July 8, 1980, 94 Stat. 928, provided that: ''All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned costs, arising after July 8, 1980, shall be resolved within 6 months.''

§ 3522. Making and submitting accounts

(a)(1) Unless the Comptroller General decides the public interest requires that an account be made more frequently, each disbursing official shall make a quarterly account. An official or agent of the United States Government receiving public money not authorized to be kept as pay of the official or agent shall make a monthly account of the money.

(2) An official or agent of the Government receiving public money shall make an account of public money received by the official or agent according to the appropriation from which the money was advanced.

(b)(1) A monthly account shall be submitted to the appropriate official in the District of Columbia by the 10th day after the end of the month covered by the account. The official shall submit the account to the Comptroller General by the 20th day after receiving the account.

(2) An account (except a monthly account) shall be submitted to the appropriate official in the District of Columbia by the 20th day after the end of the period covered by the account. The official shall submit the account to the Comptroller General by the 60th day after receiving the account.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, an account of the armed forces shall be submitted to the Comptroller General by the 60th day after the account is received. However, during a war or national emergency and for 18 months after the war or emergency ends, an account shall be submitted to the Comptroller General by the 90th day after the account is received.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, an account of a disbursing official of the Department of Justice shall be submitted to the Comptroller General by the 80th day after the account is received.

(c) An official shall give evidence of compliance with subsection (b) of this section if an account is not received within a reasonable time after the time required by subsection (b).

(d) The head of an agency may require other returns or reports about the agency that the public interest requires.

(e)(1) The Comptroller General shall disapprove a requisition for an advance of money if an account from which the advance is to be made is not submitted to the Comptroller General within the time required by subsection (b) of this section. The Comptroller General may disapprove the request for another reason related to the condition of an account of the official for whom the advance is requested. However, the Secretary of the Treasury may overrule the decision of the Comptroller General on the sufficiency of the other reasons.

(2) The Secretary may extend the time requirements of subsection (b)(1) and (2) of this section for submitting an account to the proper official in the District of Columbia or waive a condition of delinquency only when there is, or is likely to be, a manifest physical difficulty in complying with those requirements. If an account is not submitted to the Comptroller General on time under subsection (b), an order of the President or, if the President is ill or not in the District of Columbia, the Secretary is required to authorize an advance.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 961.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3522(a)(1)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:496(1st sentence).	R.S. § 3622; Feb. 27, 1877, ch. 69(8th complete par. on p. 249), 19 Stat. 249; July 31, 1894, ch. 174, § 12(last par.), 28 Stat. 209.
	31:497.	Aug. 30, 1890, ch. 837, § 4, 26 Stat. 413.
3522(a)(2)	31:498.	R.S. § 3623.
3522(b)(1), (2).	31:44(1st sentence).	
	31:78(1st, last sentences).	July 31, 1894, ch. 174, § 12(1st par.), 28 Stat. 209; Mar. 2, 1895, ch. 177, § 4, 28 Stat. 807.
	31:496(2d sentence).	
3522(b)(3)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:80.	Mar. 2, 1901, ch. 803(3d par. on p. 910), 31 Stat. 910; July 9, 1918, ch. 143, ch. XVIII(last par.), 40 Stat. 892.
	31:80a.	Nov. 21, 1941, ch. 499, 55 Stat. 781.
	31:80b.	Dec. 26, 1941, ch. 629, 55 Stat. 862; Dec. 23, 1944, ch. 720, 58 Stat. 923.
	31:80c.	Feb. 20, 1942, ch. 95, 56 Stat. 94.
	31:496(3d sentence).	
3522(b)(4)	31:44(1st sentence).	
	31:81.	Mar. 4, 1907, ch. 2918, § 1(3d par. under heading ''United States Courts''), 34 Stat. 1360.
3522(c)	31:496(4th sentence).	
3522(d)	31:496(last sentence).	
3522(e)(1)	31:44(1st sentence).	
	31:78(2d sentence).	
3522(e)(2)	31:44(1st sentence).	
	31:78(3d, 4th sentences).	

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (a)(1), the words ''of the United States'' and ''and the Secretary of the Senate shall render his accounts as otherwise provided'' in 31:497 are omitted as unnecessary. The words ''Except as otherwise provided'' in 31:496 are omitted as unnecessary. The words ''official or agent of the United States Government'' are substituted for ''officer or agent of the United States'' for consistency in the revised title and with other titles of the United States Code. The word ''pay'' is substituted for ''salary, pay, or emolument'' for consistency and to eliminate unnecessary words.

In subsection (a)(2), the words ''official or agent of the Government'' are substituted for ''officers, agents, or other persons'' for consistency in the revised title and with other titles of the Code. The word ''distinct'' is omitted as surplus. The word ''received'' is sub-

stituted for ''application'' for consistency in the revised title.

In subsection (b)(1), the text of 31:496(2d sentence) is omitted as surplus. The text of 31:78(last sentence) is omitted as unnecessary because of 39:410. The words ''Except as otherwise provided by law'' are omitted as unnecessary. The words ''mailed or otherwise'' are omitted as surplus. The words ''District of Columbia'' are substituted for ''Washington'' for consistency. The words ''The official shall submit the account'' are substituted for ''and shall be transmitted'' for clarity. The words ''and received by'' are omitted as surplus. The words ''receiving the account'' are substituted for ''of their actual receipt at the proper office in Washington'' to eliminate unnecessary words.

Subsection (b)(2) is substituted for ''and quarterly and other accounts within twenty days after the period to which they relate'' and ''and sixty days in the case of quarterly and other accounts'' because of the restatement.

In subsection (b)(3), the source provisions are combined to eliminate unnecessary words. The words ''Notwithstanding paragraphs (1) and (2) of this subsection'' are added for clarity. The words ''monthly'' in 31:80 and ''quarterly'' in 31:80c are omitted as unnecessary. The words ''armed forces'' are substituted for ''Army'' in 31:80 and 80a and ''United States Navy, United States Marine Corps, and United States Coast Guard'' in 31:80b for consistency with title 10. The Air Force is included because of sections 205(a) and 207(a) and (f) of the National Security Act of 1947 (ch. 343, 61 Stat. 501, 502) and sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488, 676).

In subsection (b)(4), the words ''Notwithstanding paragraphs (1) and (2) of this subsection'' are added for clarity. The words ''United States marshals and other'' are omitted as surplus. The words ''in the Department of Justice at Washington, District of Columbia'' are omitted because of the restatement.

In subsection (c), the words ''whose accounts are in default'', ''be required to'', ''satisfactory'', ''at the General Accounting Office or proper bureau'', and ''proper'' are omitted as surplus. The words ''after the time required by subsection (b) of this section'' are substituted for ''thereafter'' for clarity.

In subsection (d), the word ''agency'' is substituted for ''departments'' because of the definition of ''agency'' in section 102 of the revised title. The word ''may'' is substituted for ''Nothing contained in this section shall, however, be construed to restrain . . . from'' to eliminate unnecessary words. The words ''about the agency'' are substituted for ''from the officer or agent, subject to the control of such heads of departments'' for clarity.

In subsection (e)(1), the words ''if an account from which the advance is to be made is not submitted to the Comptroller General within the time required by subsection (b) of this section'' are substituted for ''Should there by any delinquency in this regard'' for clarity.

In subsection (e)(2), the 1st sentence is substituted for 31:78(3d sentence), and the words ''If an account is not submitted to the Comptroller General on time under subsection (b)'' are substituted for ''Should there be a delay by the administrative departments beyond the aforesaid twenty or sixty days in transmitting accounts'', for clarity and to eliminate unnecessary words. The words ''District of Columbia'' are substituted for ''seat of Government'' for consistency. The words ''in the particular case'' and ''of money requested'' are omitted as surplus.

§ 3523. General audit authority of the Comptroller General

(a) Except as specifically provided by law, the Comptroller General shall audit the financial transactions of each agency. In deciding on auditing procedures and the extent to which records are to be inspected, the Comptroller General shall consider generally accepted auditing principles, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of each agency.

(b) The Comptroller General shall audit the Architect of the Capitol at times the Comptroller General considers appropriate. Section 716 of this title applies to the Architect in conducting the audit. The Comptroller General shall report the results of the audit to Congress. Each report shall be printed as a Senate document.

(c)(1) When the Comptroller General decides an audit shall be conducted at a place at which the records of an executive agency or the Architect of the Capitol are usually kept, the Comptroller General may require the head of the agency or the Architect to keep any part of an account of an accountable official or of a record required to be submitted to the Comptroller General. The Comptroller General may require records be kept under conditions and for a period of not more than 10 years specified by the Comptroller General. However, the Comptroller General and the head of the agency or the Architect may agree on a longer period.

(2) The Comptroller General and the head of an agency in the legislative or judicial branch of the United States Government (except the Architect) may agree to apply this subsection to the agency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 962.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3523(a)	31:67(a).	Sept. 12, 1950, ch. 946, §117(a), 64 Stat. 837.
3523(b)	31:67(c).	Sept. 12, 1950, ch. 946, 64 Stat. 832, §117(c); added Aug. 20, 1964, Pub. L. 88–454, §105(a)(last par.), 78 Stat. 551.
3523(c)	31:67(b).	Sept. 12, 1950, ch. 946, §117(b), 64 Stat. 837; Aug 20, 1964, Pub. L. 88–454, §105(a)(last par.), 78 Stat. 551.

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (a), the words ''otherwise'' and ''including but not limited to the accounts of accountable officers'' are omitted as surplus. The words ''in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States'' are omitted as unnecessary because of section 711 of the revised title. The words ''to be followed'' are omitted as surplus. The words ''to which records are to be inspected'' are substituted for ''of examination of vouchers and other documents'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the first sentence is substituted for 31:67(c)(1st sentence), and the word ''Congress'' is substituted for ''the President of the Senate and the Speaker of the House of Representatives'', for consistency and to eliminate unnecessary words.

In subsection (c), the words ''the head of'' are added for consistency.

In subsection (c)(1), the words ''or places'', ''accounts and other'', and ''contracts, vouchers, and other'' are omitted as surplus. The word ''record'' is substituted for ''documents'' for consistency in the revised title and with other titles of the Code. The words ''under existing law'' are omitted as surplus.

In subsection (c)(2), the words ''*Provided*, That'' are omitted because of the restatement. The words ''the accounts and records of'' are omitted as surplus.

PAYMENT FOR AUDITS

Pub. L. 108–83, title I, § 1401, Sept. 30, 2003, 117 Stat. 1034, as amended by Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814, provided that:

''(a) IN GENERAL.—At any time during fiscal year 2004 or thereafter, the Comptroller General may accept payment from the Securities and Exchange Commission for the performance of any audit of the financial statements of the Commission which is conducted by the Comptroller General.

''(b) CREDIT TO ACCOUNT.—Any payment accepted under the authority of subsection (a) shall be credited to the account established for salaries and expenses of the Government Accountability Office, and shall be available for obligation and expenditure upon receipt.''

[Pub. L. 110–323, § 6(b), Sept. 22, 2008, 122 Stat. 3547, provided that: ''Section 1401 of title I of Public Law 108–83 (31 U.S.C. 3523 note) is repealed, effective October 1, 2010.'']

§ 3524. Auditing expenditures approved without vouchers

(a)(1) The Comptroller General may audit expenditures, accounted for only on the approval, authorization, or certificate of the President or an official of an executive agency, to decide if the expenditure was authorized by law and made. Records and related information shall be made available to the Comptroller General in conducting the audit.

(2) The Comptroller General may release the results of the audit or disclose related information only to the President or head of the agency, or, if there is an unresolved discrepancy, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the committees of Congress having legislative or appropriation oversight of the expenditure.

(b) Before December 1 of each year, the Director of the Office of Management and Budget shall submit a report listing each account that may be subject to this section to the Committees on the Budget and Appropriations of both Houses of Congress, the Committee on Governmental Affairs, and to the Committee on Government Operations, and to the Comptroller General.

(c) The President may exempt from this section a financial transaction about sensitive foreign intelligence or foreign counter-intelligence activities or sensitive law enforcement investigations if an audit would expose the identifying details of an active investigation or endanger investigative or domestic intelligence sources involved in the investigation. The exemption may apply to a class or category of financial transactions.

(d) This section does not—

(1) apply to expenditures under section 102, 103, 105(d)(1), (3), or (5), or 106(b)(2) or (3) of title 3; or

(2) affect authority under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)).

(e) Information about a financial transaction exempt under subsection (c) of this section or a financial transaction under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)) may be reviewed by the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate.

(f) Subsections (a)(1) and (d)(1) of this section may be superseded only by a law enacted after April 3, 1980, specifically repealing or amending this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 963.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3524(a)(1)	31:67(f)(1)(1st sentence).	Sept. 12, 1950, ch. 946, 64 Stat. 832, § 117(f); added Apr. 3, 1980, Pub. L. 96–226, § 101, 94 Stat. 311.
3524(a)(2)	31:67(f)(2).	
3524(b)	31:67(f)(4).	
3524(c)	31:67(f)(3)(B).	
3524(d)	31:67(f)(1)(last sentence), (3)(A).	
3524(e)	31:67(f)(3)(C).	
3524(f)	31:67(f)(1)(2d sentence).	

In subsection (a)(1), the words ''Notwithstanding any provision of law'' are omitted as unnecessary. The words ''may audit'' are added for clarity and for consistency in the revised section and chapter. The words ''as may be necessary to enable him'' and ''in fact, actually'' are omitted as surplus. The words ''Records . . . shall be made available'' are substituted for ''shall have access to such books, documents, papers, records'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2), the words ''With respect to any expenditure accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency and notwithstanding any provision of law'' are omitted because of the restatement. The words ''in question'' are omitted as surplus.

In subsection (b), the words ''Before December 1 of each year'' are substituted for ''Not later than sixty days after the beginning of each fiscal year'' for clarity. The words ''starting on or after October 1, 1980'' are omitted as executed. The words ''audit by the Comptroller General under'' and ''the Chairmen of'' are omitted as surplus.

In subsection (c), the words ''proceeding pursuant to the provisions of paragraph (1) of this subsection'' and ''the safety of'' are omitted as surplus.

Subsection (d)(1) is substituted for 31:67(f)(1)(last sentence) to eliminate unnecessary words.

In subsection (e), the words ''from the provisions of paragraph (1)'' are omitted as surplus.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual,

semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the reporting requirement under subsec. (b) of this section is listed on page 42), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of this title.

§ 3525. Auditing nonappropriated fund activities

(a) The Comptroller General may audit—

(1) the operations and accounts of each nonappropriated fund and related activities authorized or operated by the head of an executive agency to sell goods or services to United States Government personnel and their dependents;

(2) accounting systems and internal controls of the fund and related activities; and

(3) internal or independent audits or reviews of the fund and related activities.

(b) The head of each executive agency promptly shall provide the Comptroller General with—

(1) a copy of the annual report of a nonappropriated fund and related activities subject to this section when the Comptroller General—

(A) requires a report for a designated class of each fund and related activities having gross sales receipts of more than $100,000 a year; or

(B) specifically requests a report for another fund and related activities; and

(2) a statement on the yearly financial operations, financial condition, and cash flow and other yearly information about the fund and related activities that the head of the agency and the Comptroller General agree on if the information is not included in the annual report.

(c) Records and property of a fund and related activities subject to this section shall be made available to the Comptroller General to the extent the Comptroller General considers necessary.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 963.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3525(a)	31:135(a)(1st sentence).	Jan. 2, 1975, Pub. L. 93–604, § 301, 88 Stat. 1961.
3525(b)	31:135(b).	
3525(c)	31:135(a)(last sentence).	

In the section, the words ''the head of'' are added for consistency.

In subsection (a), before clause (1), the words ''unless otherwise provided by law'' are omitted as surplus. The words ''may audit'' are substituted for ''shall . . . be subject to review'' for consistency. The words ''in accordance with such principles and procedures and under such rules and regulations as he may prescribe'' are omitted as unnecessary because of section 711 of the revised title. In clause (1), the words ''(including central funds)'' and ''military or other . . . such as the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, Exchange Councils of the National Aeronautics and Space Administration, commissaries, clubs, and theaters'' are omitted as surplus.

In subsection (b), before clause (1), the words ''the Comptroller General'' are added for clarity. In clause (1)(B), the words ''for another fund and related activities'' are substituted for ''in any other case'' for clarity.

In subsection (c), the words ''and his duly authorized representatives'' are omitted as unnecessary. The words ''Records . . . shall be made available'' are substituted for ''shall have access to those books, accounts, records, documents, reports, files, and other papers, things'' for consistency in the revised title and with other titles of the United States Code.

§ 3526. Settlement of accounts

(a) The Comptroller General shall settle all accounts of the United States Government and supervise the recovery of all debts finally certified by the Comptroller General as due the Government.

(b) A decision of the Comptroller General under section 3529 of this title is conclusive on the Comptroller General when settling the account containing the payment.

(c)(1) The Comptroller General shall settle an account of an accountable official within 3 years after the date the Comptroller General receives the account. A copy of the certificate of settlement shall be provided the official.

(2) The settlement of an account is conclusive on the Comptroller General after 3 years after the account is received by the Comptroller General. However, an amount may be charged against the account after the 3-year period when the Government has or may have lost money because the official acted fraudulently or criminally.

(3) A 3-year period under this subsection is suspended during a war.

(4) This subsection does not prohibit—

(A) recovery of public money illegally or erroneously paid;

(B) recovery from an official of a balance due the Government under a settlement within the 3-year period; or

(C) an official from clearing an account of questioned items as prescribed by law.

(d) On settling an account of the Government, the balance certified by the Comptroller General is conclusive on the executive branch of the Government. On the initiative of the Comptroller General or on request of an individual whose accounts are settled or the head of the agency to which the account relates, the Comptroller General may change the account within a year after settlement. The decision of the Comptroller General to change the account is conclusive on the executive branch.

(e) When an amount of money is expended under law for a treaty or relations with a foreign country, the President may—

(1) authorize the amount to be accounted for each year specifically by settlement of the Comptroller General when the President decides the amount expended may be made public; or

(2) make, or have the Secretary of State make, a certificate of the amount expended if the President decides the amount is not to be accounted for specifically. The certificate is a sufficient voucher for the amount stated in the certificate.

(f) The Comptroller General shall keep all settled accounts, vouchers, certificates, and related papers until they are disposed of as prescribed by law.

(g) This subchapter does not prohibit the Comptroller General from suspending an item in an account to get additional evidence or explanations needed to settle an account.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 964.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3526(a)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par.), 42 Stat. 24.
	31:71(related to accounts).	R.S. § 236(related to accounts); restated June 10, 1921, ch. 18, § 305, 42 Stat. 24.
	31:538.	June 5, 1920, ch. 240(3d par. under heading ''Advances to Disbursing Officers''), 41 Stat. 975.
	31:541.	June 19, 1878, ch. 312, § 3, 20 Stat. 168.
3526(b)	31:44(1st sentence).	
	31:74(last par. words after 4th comma).	July 31, 1894, ch. 174, § 8(1st par. less proviso, 3d par. 1st sentence words after semicolon, 4th par., 6th par. words after 4th comma), 28 Stat. 207, 208; Oct. 25, 1951, ch. 562, § 3(1), 65 Stat. 639.
3526(c)	31:82i.	May 19, 1947, ch. 78, 61 Stat. 101; June 6, 1972, Pub. L. 92–310, § 231(ee), 86 Stat. 213.
3526(d)	31:44.	
	31:74(1st par. 1st sentence).	
3526(e)	31:44(1st sentence).	
	31:107.	R.S. § 291.
3526(f)	31:44(1st sentence).	
	31:74(2d par.).	
3526(g)	31:44(1st sentence).	
	31:74(1st par. last sentence).	

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (a), the text of 31:538 and 541 is omitted as executed and obsolete. The words ''either as debtor or creditor'' in 31:71(related to accounts) and ''and adjusted'' are omitted as surplus. The last 17 words are added to restate that part of section 4 of the Act of July 31, 1894 (ch. 174, 28 Stat. 206), that was inadvertently repealed in the codification of title 5.

Subsection (b) is substituted for 31:74(last par. words after 4th comma) for clarity and consistency and because of the restatement.

In subsection (c)(1), the words ''Effective three years after May 19, 1947'' are omitted as executed. The words ''monthly or quarterly . . . disbursing . . . or certifying'' are omitted as surplus. The word ''official'' is substituted for ''officer'' for consistency in the revised title and with other titles of the United States Code. The words ''a period of not to exceed'', ''in each case'', and ''involved'' are omitted as surplus.

In subsection (c)(2), the words ''final and'', ''the expiration of'', and ''date of'' are omitted as surplus. The words ''However, an amount may be charged against the account after the 3-year period when'' are substituted for ''to the extent that no further charges or debts shall be raised in such account thereafter except as to'' for clarity and consistency.

Subsection (c)(3) is substituted for 31:82i(last proviso) to eliminate unnecessary words.

In subsection (c)(4), before clause (A), the words ''*Provided*, That'' and ''*Provided further*, That'' are omitted because of the restatement. In clause (A), the words ''from any payee'' and ''to such payee'' are omitted as surplus. In clause (B), the words ''disbursing, accountable, or certifying'', ''found . . . made'', and ''as provided in this section'' are omitted as surplus. In clause (C), the words ''of his right at any time'' and ''existing'' are omitted as surplus.

In subsection (d), the text of 31:44(last sentence) is omitted as executed. The words ''final and'' are omitted as surplus. The words ''an account of the Government'' are substituted for ''public'' for consistency. The words ''On the initiative of'' and ''after settlement'' are added for clarity.

In subsection (e), before clause (1), the words ''is expended'' are substituted for ''has been or shall be issued, from the Treasury'' for clarity. The words ''the purposes of'' are omitted as surplus. The word ''country'' is substituted for ''nations'' for consistency in the revised title and with other titles of the Code. The words ''in pursuance of any law'' are omitted as surplus. In clause (1), the word ''duly'' is omitted as surplus. In clause (2), the words ''if the President decides the amount is not to be accounted for specifically'' are substituted for ''as he may think it advisable not to specify'' for clarity. The words ''to have been expended'' are omitted as surplus.

In subsection (f), the word ''settled'' is substituted for ''which have been finally adjusted'' for consistency. The words ''together with'' are omitted as surplus.

§ 3527. General authority to relieve accountable officials and agents from liability

(a) Except as provided in subsection (b) of this section, the Comptroller General may relieve a present or former accountable official or agent of an agency responsible for the physical loss or deficiency of public money, vouchers, checks, securities, or records, or may authorize reimbursement from an appropriation or fund available for the activity in which the loss or deficiency occurred for the amount of the loss or deficiency paid by the official or agent as restitution, when—

(1) the head of the agency decides that—

(A) the official or agent was carrying out official duties when the loss or deficiency occurred, or the loss or deficiency occurred because of an act or failure to act by a subordinate of the official or agent; and

(B) the loss or deficiency was not the result of fault or negligence by the official or agent;

(2) the loss or deficiency was not the result of an illegal or incorrect payment; and

(3) the Comptroller General agrees with the decision of the head of the agency.

(b)(1) The Comptroller General shall relieve an official of the armed forces referred to in subsection (a) responsible for the physical loss or deficiency of public money, vouchers, or records, or a payment described in section 3528(a)(4)(A) of this title, or shall authorize reimbursement, from an appropriation or fund available for reimbursement, of the amount of the loss or deficiency paid by or for the official as restitution, when—

(A) in the case of a physical loss or deficiency—

(i) the Secretary of Defense or the appropriate Secretary of the military department of the Department of Defense (or the Secretary of Homeland Security, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy) decides that the official was carrying out official duties when the loss or deficiency occurred;

(ii) the loss or deficiency was not the result of an illegal or incorrect payment; and

(iii) the loss or deficiency was not the result of fault or negligence by the official; or

(B) in the case of a payment described in section 3528(a)(4)(A) of this title, the Secretary of Defense or the Secretary of the appropriate

military department (or the Secretary of Homeland Security, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy), after taking a diligent collection action, finds that the criteria of section 3528(b)(1) of this title are satisfied.

(2) The finding of the Secretary involved is conclusive on the Comptroller General.

(c) On the initiative of the Comptroller General or written recommendation of the head of an agency, the Comptroller General may relieve a present or former disbursing official of the agency responsible for a deficiency in an account because of an illegal, improper, or incorrect payment, and credit the account for the deficiency, when the Comptroller General decides that the payment was not the result of bad faith or lack of reasonable care by the official. However, the Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures prescribed by the Comptroller General.

(d)(1) When the Comptroller General decides it is necessary to adjust the account of an official or agent granted relief under subsection (a) or (c) of this section, the amount of the relief shall be charged—

(A) to an appropriation specifically provided to be charged; or

(B) if no specific appropriation, to the appropriation or fund available for the expense of the accountable function when the adjustment is carried out.

(2) Subsection (c) of this section does not—

(A) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(B) relieve an accountable official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Relief provided under this section is in addition to relief provided under another law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 965; Pub. L. 104–106, div. A, title IX, § 913(c)(4), Feb. 10, 1996, 110 Stat. 411; Pub. L. 104–201, div. A, title X, § 1009(c)(2), Sept. 23, 1996, 110 Stat. 2635; Pub. L. 109–241, title IX, § 902(b)(3), July 11, 2006, 120 Stat. 566.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3527(a)	31:82a–1(1st, 2d sentences).	Aug. 1, 1947, ch. 441, §1, 61 Stat. 720; Aug. 9, 1955, ch. 694, 69 Stat. 626.
3527(b)	31:95a(1st–3d sentences).	Dec. 13, 1944, ch. 552, 58 Stat. 800; restated Aug. 11, 1955, ch. 803, §2(a), 69 Stat. 687.
3527(c)	31:82a–2(a).	Aug. 11, 1955, ch. 803, §1, 69 Stat. 687.
3527(d)(1)	31:82a–1(last sentence). 31:82a–2(c).	
3527(d)(2)	31:82a–2(b)(1st sentence).	
3527(e)	31:82a–2(b)(last sentence). 31:95a(last sentence).	

In the section, the word ''official'' is substituted for ''officer'', and the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words ''Except as provided in subsection (b) of this section'' are added for clarity. The words ''disbursing or other'' are omitted as surplus. The words ''public money, vouchers, checks, securities, or records'' are substituted for ''Government funds, vouchers, records, checks, securities, or papers'' for consistency in the revised title and with other titles of the Code. The words ''subsequent to August 1, 1947'' are omitted as executed. In clause (1)(A), the words ''carrying out'' are substituted for ''acting in the discharge of'' for consistency. The words ''failure to act'' are substituted for ''omission'' for clarity. Clause (2) is substituted for 31:82a–1(a)(2d sentence), and clause (3) is substituted for 31:82a–1(1st sentence words between 1st and 2d commas), to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ''armed forces'' are substituted for ''Army, Navy, Air Force, or Marine Corps'' for consistency with title 10. The words ''responsible for'' are substituted for ''Whenever . . . incurs or has incurred'' for consistency. The words ''public money, vouchers, or records'' are substituted for ''Government funds, vouchers, records, or papers'' for consistency in the revised title and with other titles of the Code. The word ''reimbursement'' is substituted for ''that purpose'' for clarity. In clause (A), the words ''the Secretary of Defense, or'' are added for clarity because of Comptroller General decision B–201579 (Apr. 1, 1981). The words ''appropriate Secretary of the military department of the Department of Defense'' are substituted for ''the Secretary of the department concerned'', for clarity. The words ''carrying out official'' are substituted for ''in line of his'' for consistency. In clause (B), the words ''the loss or deficiency was not the result of an illegal or incorrect payment'' are substituted for 31:95a(3d sentence) to eliminate unnecessary words.

In subsection (b)(2), the word ''involved'' is added for clarity because of Comptroller General decision B–201579, April 1, 1981.

In subsection (c), the words ''or any officer of the General Accounting Office designated by the Comptroller General'' are omitted as unnecessary because of section 731 of the revised title. The word ''initiative'' is substituted for ''motion'' for consistency. The words ''findings and'' and ''concerned'' are omitted as surplus. The words ''or his designee'' are omitted as unnecessary because of section 731 of the revised title. The words ''in his discretion'', ''of accountability and'', ''official disbursing'', and ''the making of'' are omitted as surplus. The word ''reasonable'' is substituted for ''due'', the words ''the head of'' are added, and the words ''carry out'' are substituted for ''pursued'', for consistency.

In subsection (d)(1), before clause (A), the words ''restore or otherwise'', and the words ''in . . . any amount'' in 31:82a–2(c), are omitted as surplus. In clause (A), the words ''to be charged'' are substituted for ''therefor'' for clarity. In clause (B), the words ''carried out'' are substituted for ''effected'' for consistency.

Subsection (e) is substituted for 31:82a–2(b)(last sentence) and 95a(last sentence) to eliminate unnecessary words.

AMENDMENTS

2006—Subsec. (b)(1)(A)(i), (B). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1996—Subsec. (b)(1). Pub. L. 104–106, § 913(c)(4)(C)–(F), inserted ''(A) in the case of a physical loss or deficiency—'', redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, and added subpar. (B).

Pub. L. 104–106, § 913(c)(4)(A), (B), in introductory provisions, substituted ''an official of the armed forces referred to in subsection (a)'' for ''a disbursing official of the armed forces'' and ''records, or a payment described in section 3528(a)(4)(A) of this title,'' for ''records,''.

Subsec. (b)(1)(A)(i). Pub. L. 104–201, § 1009(c)(2)(A), inserted ''(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)'' after ''Department of Defense''.

Subsec. (b)(1)(B). Pub. L. 104–201, § 1009(c)(2)(B), inserted ''(or the Secretary of Transportation, in the case of a disbursing official of the Coast Guard when the Coast Guard is not operating as a service in the Navy)'' after ''or the Secretary of the appropriate military department''.

§ 3528. Responsibilities and relief from liability of certifying officials

(a) A certifying official certifying a voucher is responsible for—

(1) information stated in the certificate, voucher, and supporting records;

(2) the computation of a certified voucher under this section and section 3325 of this title;

(3) the legality of a proposed payment under the appropriation or fund involved;

(4) repaying a payment—

(A) illegal, improper, or incorrect because of an inaccurate or misleading certificate;

(B) prohibited by law; or

(C) that does not represent a legal obligation under the appropriation or fund involved; and

(5) verifying transportation rates, freight classifications, and other information provided on a Government bill of lading or transportation request, unless the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government.

(b)(1) The Comptroller General may relieve a certifying official from liability when the Comptroller General decides that—

(A) the certification was based on official records and the official did not know, and by reasonable diligence and inquiry could not have discovered, the correct information; or

(B)(i) the obligation was incurred in good faith;

(ii) no law specifically prohibited the payment; and

(iii) the United States Government received value for payment.

(2) The Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures prescribed by the Comptroller General.

(c) The Comptroller General shall relieve a certifying official from liability for an overpayment—

(1) to a common carrier under section 3726 of this title when the Comptroller General decides the overpayment occurred only because the administrative audit before payment did not verify transportation rates, freight classifications, or land-grant deductions and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government; or

(2) provided under a Government bill of lading or transportation request when the overpayment was the result of using improper transportation rates or classifications or the failure to deduct the proper amount under a land-grant law or agreement and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 966; Pub. L. 98–216, § 1(4), Feb. 14, 1984, 98 Stat. 4; Pub. L. 104–106, div. A, title IX, § 913(c)(5), Feb. 10, 1996, 110 Stat. 412; Pub. L. 105–264, § 3(a)(2), Oct. 19, 1998, 112 Stat. 2352.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3528(a)	31:82c(less provisos).	Dec. 29, 1941, ch. 641, § 2, 55 Stat. 875; June 6, 1972, Pub. L. 92–310, § 231(cc), 86 Stat. 213.
	31:82f(related to certifying officers).	Apr. 28, 1942, ch. 247, § 301(1st par. proviso under heading ''Bureau of Accounts'' related to certifying officers), 56 Stat. 244.
3528(b)	31:82c(1st proviso).	
3528(c)	31:82c(last proviso).	
	31:82g(related to certifying officers).	June 1, 1942, ch. 320(related to certifying officers), 56 Stat. 306.
3528(d)	31:82e(related to 31:82c).	Dec. 29, 1941, ch. 641, § 4(related to § 2), 55 Stat. 876.

In the section, the word ''official'' is substituted for ''officer or employee'' and ''officer'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words ''the existence and correctness of'' are omitted as surplus. In clause (1), the words ''or otherwise stated on'' are omitted as surplus. The word ''records'' is substituted for ''papers'' for consistency. Clause (2) is substituted for 31:82f(related to certifying officers) because of the restatement. In clause (4), before subclause (A), the word ''repaying'' is substituted for ''and required to make good to the United States'' to eliminate unnecessary words. The words ''the amount of'' are omitted as surplus. In subclause (A), the word ''inaccurate'' is substituted for ''false, inaccurate'' to eliminate an unnecessary word. The words ''made by him'' are omitted as surplus.

In subsection (b), before clause (1), the words ''in his discretion'' and ''for any payment otherwise proper'' are omitted as surplus. Clause (2)(B) is substituted for ''the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved'' to eliminate unnecessary words.

In subsection (c), before clause (1), the word ''services'' in 31:82c(last proviso) is omitted as surplus. The words ''On and after June 1, 1942'' in 31:82g(related to certifying officers) are omitted as executed. The word ''audit'' is substituted for ''examination'' for consistency in the revised title and with other titles of the Code. The words ''of the transportation bill'' are omitted as surplus. In clause (2), the words ''equalization and other'' in 31:82g are omitted as surplus.

In subsection (d), the words ''under the jurisdiction'' are omitted as surplus. The words ''a military department of the Department of Defense'' are substituted for

''the Department of the Army, the Navy Department (including the Marine Corps)'' for consistency with title 10. The words ''and the Panama Canal'' (subsequently changed to ''the Canal Zone Government'' by section 2(a)(1) of the Act of September 26, 1950 (ch. 1049, 64 Stat. 1038)) are omitted because of the Panama Canal Act of 1979 (Pub. L. 96–70, 93 Stat. 452). The word ''pay'' is substituted for ''salaries'' for consistency in the revised title and with other titles of the Code.

1984 ACT

This clarifies section 3528(b) by restoring the authority of the Comptroller General to deny relief to certifying officials in the same way relief may be denied to disbursing officials.

AMENDMENTS

1998—Subsec. (a)(5). Pub. L. 105–264, § 3(a)(2)(A), added par. (5).

Subsec. (c)(1). Pub. L. 105–264, § 3(a)(2)(B), inserted ''and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government'' after ''deductions''.

Subsec. (c)(2). Pub. L. 105–264, § 3(a)(2)(C), inserted ''and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government'' after ''agreement''.

1996—Subsec. (d). Pub. L. 104–106 struck out subsec. (d) which read as follows: ''This section does not apply to disbursements of a military department of the Department of Defense, except disbursements for departmental pay and expenses in the District of Columbia.''

1984—Subsec. (b). Pub. L. 98–216 designated existing provisions as par. (1), substituted designations of subpars. (A) and (B) and cls. (i), (ii), and (iii) for former designations of pars. (1) and (2) and subpars. (A), (B), and (C), respectively, and added par. (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–264 effective 18 months after Oct. 19, 1998, see section 3(b) of Pub. L. 105–264, set out as a note under section 3322 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–216 effective Sept. 13, 1982, see section 4(c) of Pub. L. 98–216, set out as a note under section 490 of Title 18, Crimes and Criminal Procedure.

§ 3529. Requests for decisions of the Comptroller General

(a) A disbursing or certifying official or the head of an agency may request a decision from the Comptroller General on a question involving—

(1) a payment the disbursing official or head of the agency will make; or

(2) a voucher presented to a certifying official for certification.

(b)(1) Except as provided in paragraph (2), the Comptroller General shall issue a decision requested under this section.

(2) A decision requested under this section concerning a function transferred to or vested in the Director of the Office of Management and Budget under section 211(a) of the Legislative Branch Appropriations Act, 1996 (109 Stat. 535), as in effect immediately before the effective date of title II of the General Accounting Office Act of 1996, or under this Act, shall be issued—

(A) by the Director of the Office of Management and Budget, except as provided in subparagraph (B); or

(B) in the case of a function delegated by the Director to another agency, by the head of the agency to which the function was delegated.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 967; Pub. L. 104–316, title II, § 204, Oct. 19, 1996, 110 Stat. 3845.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3529	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:74(last par. words before 4th comma).	July 31, 1894, ch. 174, § 8(6th par. words before 4th comma), 28 Stat. 208.
	31:82d(words after semicolon).	Dec. 29, 1941, ch. 641, §§ 3(words after semicolon), 4(related to § 3), 55 Stat. 876.
	31:82e(related to 31:82d).	

In subsection (a), before clause (1), the text of 31:82e(related to 82d) is omitted as unnecessary because it does not apply to 31:82d. The words ''of law'' in 31:82d(words after semicolon) are omitted as surplus. In clause (1), the words ''or under them'' in 31:74(last par. words before 4th comma) are omitted as unnecessary. In clause (2), the words ''a payment on'' in 31:82d(words after semicolon) are omitted as surplus.

In subsection (b), the word ''issue'' is substituted for ''render'' in 31:74(last par. words before 4th comma) and ''obtain'' in 31:82d(words after semicolon) because of the restatement.

REFERENCES IN TEXT

Section 211(a) of the Legislative Branch Appropriations Act, 1996, as in effect immediately before the effective date of title II of the General Accounting Office Act of 1996, referred to in subsec. (b)(2), is section 211(a) of Pub. L. 104–53, which is set out as a note under section 501 of this title, as in effect before Oct. 19, 1996, the date of enactment of the General Accounting Office Act of 1996, Pub. L. 104–316, section 203 of which amended section 211 of Pub. L. 104–53 generally.

This Act, referred to in subsec. (b)(2), probably means Pub. L. 104–316, Oct. 19, 1996, 110 Stat. 3286, known as the General Accounting Office Act of 1996, which enacted subsec. (b)(2) of this section. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–316 designated existing provisions as par. (1) and substituted ''Except as provided in paragraph (2), the Comptroller General'' for ''The Comptroller General'', and added par. (2).

§ 3530. Adjusting accounts

(a) An appropriation or fund currently available for the expense of an accountable function shall be charged with an amount necessary to adjust an account of an accountable official or agent when—

(1) necessary to adjust the account for a loss to the United States Government resulting from the fault or negligence of the official or agent; and

(2) the head of the agency decides the loss is uncollectable.

(b) An adjustment does not affect the personal financial liability of an official or agent for the loss.

(c) The Comptroller General shall prescribe regulations to carry out subsection (a) of this section.

(d) Under procedures prescribed by the Comptroller General, the head of an agency may charge the net amount of unpaid and overpaid balances in individual pay accounts against the appropriation for the fiscal year in which the balances occurred and from which the accounts were payable. The net amount shall be credited to and paid from the corresponding appropriation for the next fiscal year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 967.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3530(a)	31:1202(a)(1st sentence).	June 6, 1972, Pub. L. 92–310, § 102, 86 Stat. 201.
3530(b)	31:1202(a)(last sentence).	
3530(c)	31:1202(b).	
3530(d)	31:581d.	July 15, 1954, ch. 509, § 3(a), 68 Stat. 483.

In subsection (a), before clause (1), the words ''restore or otherwise'' are omitted as surplus. The word ''currently'' is substituted for ''at the time the restoration or adjustment is made'' to eliminate unnecessary words. The word ''official'' is substituted for ''officer'' for consistency in the revised title and with other titles of the United States Code. In clause (2), the words ''concerned'' and ''the amount of'' are omitted as surplus.

In subsection (b), the words ''restoration or'' are omitted as surplus and because of the restatement.

In subsections (c) and (d), the words ''of the United States'' are omitted as surplus.

In subsection (c), the words ''and issue'' are omitted as surplus. The words ''to carry out subsection (a) of this section'' are substituted for ''The restorations and adjustments provided for by subsection (a) of this section shall be made in accordance with'' to eliminate unnecessary words.

In subsection (d), the word ''settlement'' is omitted as surplus. The words ''the Secretary of the department concerned or . . . or independent establishment concerned'' are omitted as unnecessary because of the restatement. The word ''occurring'' is omitted as surplus. The word ''accounts'' is substituted for ''amount'' before ''was payable'' for clarity. The word ''succeeding'' is omitted as surplus.

[§ 3531. Repealed. Pub. L. 104–316, title I, § 115(f)(1), Oct. 19, 1996, 110 Stat. 3834]

Section, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 967, related to certification by heads of executive departments to Comptroller General regarding losses resulting from public property entrusted to officials or agents.

§ 3532. Notification of account deficiencies

An accounting official discovering a deficiency in an account of an official of the United States Government having custody of public money shall notify the head of the agency having jurisdiction of the official of the kind and amount of the deficiency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 968.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3532	31:497a.	June 6, 1972, Pub. L. 92–310, § 260, 86 Stat. 215.

The word ''official'' is substituted for ''officers'', and the word ''Government'' is added, for consistency in the revised title and with other titles of the United States Code. The words ''having custody of public money'' are substituted for ''or in the accounts of any officer disbursing or chargeable with public money'' for clarity and consistency. The words ''immediately'' and ''the affairs of . . . or officer'' are omitted as surplus.

SUBCHAPTER IV—COLLECTION

§ 3541. Distress warrants

(a) When an official receiving public money before it is paid to the Treasury or a disbursing or certifying official of the United States Government does not submit an account or pay the money as prescribed by law, the Comptroller General shall make the account for the official and certify to the Secretary of the Treasury the amount due the Government.

(b) The Secretary shall issue a distress warrant against the official stating the amount due from the official and any amount paid. The warrant shall be directed to the marshal of the district in which the official resides. If the Secretary intends to take and sell the property of an official that is located in a district other than where the official resides, the warrant shall be directed to the marshal of the district in which the official resides and the marshal of the district in which the property is located.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 968.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3541(a)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.
	31:82d(words before semicolon).	Dec. 29, 1941, ch. 641, § 3(words before semicolon), 55 Stat. 876.
	31:506(1st sentence words before 8th comma).	R.S. § 3625; Feb. 27, 1877, ch. 69(9th complete par. on p. 249), 19 Stat. 249; July 31, 1894, ch. 174, § 4(5th par.), 28 Stat. 206; June 6, 1972, Pub. L. 92–310, § 231(k), 86 Stat. 210.
	31:514.	R.S. § 3633; July 31, 1894, ch. 174, § 4(last par.), 28 Stat. 206.
	31:516.	R.S. 3634; June 6, 1972, Pub. L. 92–310, § 231(q), 86 Stat. 210.
3541(b)	31:506(1st sentence words after 8th comma, last sentence).	
	31:507.	R.S. § 3626.

In the section, the word ''official'' is substituted for ''officer'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''any collector of the revenue, receiver of public money, or other'' in 31:506(1st sentence words before 8th comma) are omitted as surplus. The words ''or a disbursing or certifying official'' are substituted for 31:82d(words before semicolon), 514, and 516 to eliminate unnecessary words. The words ''in the manner or within the time'' in 31:506(1st sentence words before 8th comma) are omitted as surplus. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency in the revised title and with other titles of the Code. The words ''exhibiting truly'' are omitted as surplus. The words ''Secretary of the Treasury'' are substituted for ''Solicitor of the Treasury'' (subsequently changed to ''General Counsel for the Department of the Treasury'' by section 512 of the Act of May 10, 1934 (ch. 277, 48 Stat. 759)) because of the source provisions restated in section 321(c) of the revised title.

In subsection (b), the words ''delinquent'' in 31:506(1st sentence words after 8th comma, last sentence) and ''if

any, which have been'' in 31:507 are omitted as surplus. The words ''If the Secretary intends to take and sell the property of an official that is located in a district other than where the official resides'' are substituted for ''Where the officer resides in a district other than that in which his estate may be, which it is intended to take and sell'' in 31:506 for clarity.

§ 3542. Carrying out distress warrants

(a) A marshal carrying out a distress warrant issued under section 3541 of this title shall seize the personal property of the official and sell the property after giving 10 days notice of the sale. Notice shall be given by posting an advertisement of the property to be sold in at least 2 public places in the town and county in which the property was taken or the town and county in which the owner of the property resides. If the property does not satisfy the amount due under the warrant, the official may be sent to prison until discharged by law.

(b)(1) The amount due under a warrant is a lien on the real property of the official from the date the distress warrant is issued. The lien shall be recorded in the office of the clerk of the appropriate district court until discharged under law.

(2) If the personal property of the official is not enough to satisfy a distress warrant, the marshal shall sell real property of the official after advertising the property for at least 3 weeks in at least 3 public places in the county or district where the property is located. A buyer of the real property has valid title against all persons claiming under the official.

(c) The official shall receive that part of the proceeds of a sale remaining after the distress warrant is satisfied and the reasonable costs and charges of the sale are paid.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 968.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3542(a)	31:508.	R.S. § 3627.
3542(b)(1)	31:510.	R.S. § 3629; June 6, 1972, Pub. L. 92–310, § 231(m), 86 Stat. 210.
3542(b)(2)	31:511.	R.S. § 3630; June 6, 1972, Pub. L. 92–310, § 231(n), 86 Stat. 210.
	31:512.	R.S. § 3631; June 6, 1972, Pub. L. 92–310, § 231(*o*), 86 Stat. 210.
3542(c)	31:513.	R.S. § 3632; June 6, 1972, Pub. L. 92–310, § 231(p), 86 Stat. 210.

In the section, the word ''delinquent'' is omitted as surplus.

In subsection (a), the words ''issued under section 3541 of this title'' are added for clarity. The words ''by himself or by his deputy, proceed to levy and collect the sum remaining due, by'' are omitted as surplus. The words ''seize the personal property'' are substituted for ''distress . . . of the goods and chattels'' for clarity. The word ''intended'' is omitted as surplus. The last sentence is substituted for 31:508(last sentence) to eliminate unnecessary words.

In subsection (b), the words ''real property'' are substituted for ''lands, tenements, and hereditaments'' for clarity.

In subsection (b)(1), the words ''by any delinquent officer'', ''declared to be'', ''of a levy in pursuance of'', and ''against him'' are omitted as surplus.

In subsection (b)(2), the words ''personal property'' are substituted for ''goods and chattels'' for consistency. The words ''issued pursuant to sections 506 to 510 of this title'' are omitted because of the restatement. The words ''or so much thereof as may be necessary for that purpose'' and ''of such district or his deputy'' are omitted as unnecessary. The last sentence is substituted for 31:512 to eliminate unnecessary words.

In subsection (c), the words ''that part'' are substituted for ''All moneys'' for clarity.

§ 3543. Postponing a distress warrant proceeding

(a) A distress warrant proceeding may be postponed for a reasonable time if the Secretary of the Treasury believes the public interest will not be harmed by the postponement.

(b)(1) A person adversely affected by a distress warrant issued under section 3541 of this title may bring a civil action in a district court of the United States. The complaint shall state the kind and extent of the harm. The court may grant an injunction to stay any part of a distress warrant proceeding required by the action after the person applying for the injunction gives a bond in an amount the court prescribes for carrying out a judgment.

(2) An injunction under this subsection does not affect a lien under section 3542(b)(1) of this title. The United States Government is not required to answer in a civil action brought under this subsection.

(3) If the court dissolves the injunction on a finding that the civil action for the injunction was brought only for delay, the court may increase the interest rate imposed on amounts found due against the complainant to not more than 10 percent a year. The judge may grant or dissolve an injunction under this subsection either in or out of court.

(c) A person adversely affected by a refusal to grant an injunction or by dissolving an injunction under subsection (b) of this section may petition a judge of a circuit court of appeals in which the district is located or the Supreme Court justice allotted to that circuit by giving the judge or justice a copy of the proceeding held before the district judge. The judge or justice may grant an injunction or allow an appeal if the judge or justice finds the case requires it.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 968.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3543(a)	31:517.	R.S. § 3635.
3543(b)	31:518.	R.S. § 3636.
3543(c)	31:519.	R.S. § 3637.

In subsection (a), the words ''With the approval of'' and ''the institution of'' are omitted as surplus.

In subsections (b) and (c), the words ''person adversely affected'' are substituted for ''person who considers himself aggrieved'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the words ''bring a civil action . . . court'' are substituted for ''prefer a bill of complaint . . . judge'' for consistency in the revised title and with other titles of the Code. The words ''of which he complains'' are omitted as surplus. The words ''any part of a distress warrant proceeding'' are substituted for ''proceedings on such warrant altogether, or for so much thereof as the nature of'' to eliminate unnecessary words. The words ''with sufficient security'' and ''as may be awarded against him'' are omitted as surplus.

In subsection (b)(2), the words ''in any manner'' are omitted as surplus. The words ''under section 3542(b)(1)

of this title'' are substituted for ''produced by the issuing of the warrant'' for clarity. The last sentence is substituted for 31:518(2d sentence words before semicolon) to eliminate unnecessary words.

In subsection (b)(3), the words ''on a finding'' are substituted for ''it appears to the satisfaction of the judge'' for clarity and consistency and to eliminate unnecessary words. The words ''civil action'' are substituted for ''application'' for consistency. The words ''increase the interest rate imposed . . . to'' are substituted for ''add to the lawful interest assessed . . . such damages as, with such lawful interest, shall'' to eliminate unnecessary words. The words ''all'' and ''district'' are omitted as surplus.

In subsection (c), the text of R.S. § 3637(last sentence) is omitted as obsolete because of section 289 of the Act of March 3, 1911 (ch. 231, 36 Stat. 1167). The words ''When the district judge'', ''to stay proceedings on a distress warrant'', ''after it is granted'', and ''by the decision in the premises'', are omitted as surplus. The words ''may petition . . . by giving the judge or justice'' are substituted for ''may lay before'' for clarity. The words ''judge of a circuit court of appeals'' are substituted for ''circuit judge of the circuit'' for consistency with 28:43. The words ''Supreme Court justice allotted to that district'' are substituted for ''circuit justice'' for clarity and consistency with 28:42. The words ''and thereupon'', ''as the case may be'', and ''the equity of'' are omitted as surplus.

§ 3544. Rights and remedies of the United States Government reserved

This subchapter does not affect a right or remedy the United States Government has by law to recover a tax, debt, or demand.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 969.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3544	31:520.	R.S. § 3638.

The words ''relating to distress warrants'' and ''take away or'' are omitted as surplus.

§ 3545. Civil action to recover money

The Attorney General shall bring a civil action to recover an amount due to the United States Government on settlement of the account of a person accountable for public money when the person neglects or refuses to pay the amount to the Treasury. Any commission of that person and interest of 6 percent a year from the time the money is received by the person until repaid to the Treasury shall be added to the amount due on the account. The commission is forfeited when judgment is obtained.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 969.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3545	31:505.	R.S. § 3624.

The functions of the First Comptroller of the Treasury, referred to in Revised Statutes section 3624, were as a matter of law vested in the Solicitor of the Treasury by Revised Statutes sections 377 and 379 (based on the Act of May 28, 1830, ch. 153, 45 Stat. 414). This function is now vested in the Attorney General. See 28:507 as enacted in 1948 and revision notes thereto and existing 28:519, 547, and 509. The words ''bring a civil action'' are substituted for ''institute suit'' for consistency in the revised title and with other titles of the United States Code. The word ''amount'' is substituted for ''sum or balance'' to eliminate unnecessary words. The words ''reported to be'' are omitted as surplus. The word ''settlement'' is substituted for ''adjustment'' for consistency. The words ''by the person'' are added for clarity. The words ''stated to be'', ''in every instance where suit is commenced and . . . thereon'', and ''it shall be'' are omitted as surplus.

SUBCHAPTER V—PROCUREMENT PROTEST SYSTEM

§ 3551. Definitions

In this subchapter:

(1) The term ''protest'' means a written objection by an interested party to any of the following:

(A) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

(B) The cancellation of such a solicitation or other request.

(C) An award or proposed award of such a contract.

(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

(2) The term ''interested party''—

(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, includes—

(i) any official who submitted the agency tender in such competition; and

(ii) any one individual who, for the purpose of representing the Federal employees engaged in the performance of the activity or function for which the public-private competition is conducted in a protest under this subchapter that relates to such public-private competition, has been designated as the agent of the Federal employees by a majority of such employees.

(3) The term ''Federal agency'' has the meaning given such term by section 102 of title 40.

(Added Pub. L. 98–369, div. B, title VII, § 2741(a), July 18, 1984, 98 Stat. 1199; amended Pub. L. 99–145, title XIII, § 1304(d), Nov. 8, 1985, 99 Stat. 742; Pub. L. 103–272, § 4(f)(1)(K), July 5, 1994, 108 Stat. 1362; Pub. L. 103–355, title I, § 1401, Oct. 13, 1994, 108 Stat. 3287; Pub. L. 104–106, div. D, title XLIII, § 4321(d)(1), Feb. 10, 1996, 110 Stat. 674; Pub. L. 107–217, § 3(h)(6), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108–375, div. A, title III, § 326(a), Oct.

28, 2004, 118 Stat. 1848; Pub. L. 110–161, div. D, title VII, § 739(c)(1)(A), Dec. 26, 2007, 121 Stat. 2030; Pub. L. 110–181, div. A, title III, § 326(a), Jan. 28, 2008, 122 Stat. 62.)

AMENDMENTS

2008—Par. (2). Pub. L. 110–181 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The term 'interested party'—

''(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

''(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under OMB Circular A–76, includes—

''(i) any official who submitted the agency tender in such competition; and

''(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.''

2007—Par. (2). Pub. L. 110–161 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(2)(A) The term 'interested party', with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

''(B) The term includes the official responsible for submitting the Federal agency tender in a public-private competition conducted under Office of Management and Budget Circular A–76 regarding an activity or function of a Federal agency performed by more than 65 full-time equivalent employees of the Federal agency.''

2004—Par. (2). Pub. L. 108–375 designated existing provisions as subpar. (A) and added subpar. (B).

2002—Par. (3). Pub. L. 107–217 substituted ''section 102 of title 40'' for ''section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)''.

1996—Pub. L. 104–106, § 4321(d)(1)(A), substituted ''subchapter:'' for ''subchapter—'' in introductory provisions.

Par. (2). Pub. L. 104–106, § 4321(d)(1)(B), substituted ''or a solicitation or other request for offers'' for ''or proposed contract''.

1994—Par. (1). Pub. L. 103–355, § 1401(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: '' 'protest' means a written objection by an interested party to a solicitation by a Federal agency for bids or proposals for a proposed contract for the procurement of property or services or a written objection by an interested party to a proposed award or the award of such a contract;''.

Pub. L. 103–272 substituted ''a Federal'' for ''an Federal''.

Par. (2). Pub. L. 103–355, § 1401(b)(1), inserted ''The term'' after ''(2)'' and substituted a period for ''; and'' at end.

Par. (3). Pub. L. 103–355, § 1401(b)(2), inserted ''The term'' after ''(3)''.

1985—Par. (1). Pub. L. 99–145 substituted ''Federal agency'' for ''executive agency''.

EFFECTIVE DATE OF 2008 AMENDMENT

Par. (2)(B) of this section, as added by Pub. L. 110–181, applicable to a protest or civil action that challenges final selection of the source of performance of an activity or function of a Federal agency made pursuant to a study under OMB Circular A–76 on or after Jan. 1, 2004, and to any other protest or civil action that relates to a public-private competition under Circular A–76 or to a decision to convert a function performed by Federal employees to private sector performance without a competition under Circular A–76, on or after Jan. 28, 2008, see section 326(d) of Pub. L. 110–181, set out as a note under section 1491 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2007 AMENDMENT

Paragraph (2)(B) of this section applicable to protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A–76 on or after Jan. 1, 2004; and to any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A–76, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, on or after Dec. 26, 2007, see section 739(c)(3) of Pub. L. 110–161, set out as a note under section 501 of this title.

Amendment by Pub. L. 110–161 applicable with respect to fiscal year 2008 and each succeeding fiscal year, see section 739(e) of Pub. L. 110–161, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title III, § 326(d), Oct. 28, 2004, 118 Stat. 1848, provided that: ''The amendments made by this section [amending this section and sections 3552 and 3553 of this title] shall apply to protests filed under subchapter V of chapter 35 of title 31, United States Code, that relate to studies initiated under Office of Management and Budget Circular A–76 on or after the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 28, 2004].''

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98–369, set out as a note under section 251 of Title 41, Public Contracts.

CONSTRUCTION OF 2004 AMENDMENT

Pub. L. 108–375, div. A, title III, § 326(e), Oct. 28, 2004, 118 Stat. 1849, provided that: ''The amendments made by this section [amending this section and sections 3552 and 3553 of this title] shall not be construed to authorize the use of a protest under subchapter V of chapter 35 of title 31, United States Code, with regard to a decision made by an agency tender official.''

§ 3552. Protests by interested parties concerning procurement actions

(a) A protest concerning an alleged violation of a procurement statute or regulation shall be decided by the Comptroller General if filed in accordance with this subchapter.

(b)(1) In the case of an agency tender official who is an interested party under section 3551(2)(B) of this title, the official may file a protest in connection with the public-private

competition for which the official is an interested party. At the request of a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to such public-private competition, the official shall file a protest in connection with such public-private competition unless the official determines that there is no reasonable basis for the protest.

(2) The determination of an agency tender official under paragraph (1) whether or not to file a protest is not subject to administrative or judicial review. An agency tender official shall provide written notification to Congress whenever the official makes a determination under paragraph (1) that there is no reasonable basis for a protest.

(Added Pub. L. 98–369, div. B, title VII, § 2741(a), July 18, 1984, 98 Stat. 1199; amended Pub. L. 103–272, § 4(f)(1)(L), July 5, 1994, 108 Stat. 1362; Pub. L. 103–355, title X, § 10005(d), Oct. 13, 1994, 108 Stat. 3408; Pub. L. 104–106, div. E, title LVI, § 5603, Feb. 10, 1996, 110 Stat. 700; Pub. L. 108–375, div. A, title III, § 326(b), Oct. 28, 2004, 118 Stat. 1848.)

AMENDMENTS

2004—Pub. L. 108–375 designated existing provisions as subsec. (a) and added subsec. (b).

1996—Pub. L. 104–106 struck out at end ''An interested party who has filed a protest under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) with respect to a procurement or proposed procurement may not file a protest with respect to that procurement under this subchapter.''

1994—Pub. L. 103–272 and Pub. L. 103–355 amended section identically, substituting ''section 111(f)'' for ''section 111(h)'' and ''759(f)'' for ''759(h)''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 applicable to protests filed under this subchapter that relate to studies initiated under Office of Management and Budget Circular A–76 on or after the end of the 90-day period beginning on Oct. 28, 2004, see section 326(d) of Pub. L. 108–375, set out as a note under section 3551 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, div. E, title LVII, Feb. 10, 1996, 110 Stat. 702.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98–369, set out as a note under section 251 of Title 41, Public Contracts.

CONSTRUCTION OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 not to be construed to authorize the use of a protest under this subchapter with regard to a decision made by an agency tender official, see section 326(e) of Pub. L. 108–375, set out as a note under section 3551 of this title.

§ 3553. Review of protests; effect on contracts pending decision

(a) Under procedures prescribed under section 3555 of this title, the Comptroller General shall decide a protest submitted to the Comptroller General by an interested party.

(b)(1) Within one day after the receipt of a protest, the Comptroller General shall notify the Federal agency involved of the protest.

(2) Except as provided in paragraph (3) of this subsection, a Federal agency receiving a notice of a protested procurement under paragraph (1) of this subsection shall submit to the Comptroller General a complete report (including all relevant documents) on the protested procurement—

(A) within 30 days after the date of the agency's receipt of that notice;

(B) if the Comptroller General, upon a showing by the Federal agency, determines (and states the reasons in writing) that the specific circumstances of the protest require a longer period, within the longer period determined by the Comptroller General; or

(C) in a case determined by the Comptroller General to be suitable for the express option under section 3554(a)(2) of this title, within 20 days after the date of the Federal agency's receipt of that determination.

(3) A Federal agency need not submit a report to the Comptroller General pursuant to paragraph (2) of this subsection if the agency is sooner notified by the Comptroller General that the protest concerned has been dismissed under section 3554(a)(4) of this title.

(c)(1) Except as provided in paragraph (2) of this subsection, a contract may not be awarded in any procurement after the Federal agency has received notice of a protest with respect to such procurement from the Comptroller General and while the protest is pending.

(2) The head of the procuring activity responsible for award of a contract may authorize the award of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

(A) upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General under this subchapter; and

(B) after the Comptroller General is advised of that finding.

(3) A finding may not be made under paragraph (2)(A) of this subsection unless the award of the contract is otherwise likely to occur within 30 days after the making of such finding.

(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

(A) a protest is likely to be filed; and

(B) the immediate performance of the contract is not in the best interests of the United States.

(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

(ii) if authorization for contract performance to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

(i) upon a written finding that—

(I) performance of the contract is in the best interests of the United States; or

(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

(ii) after the Comptroller General is notified of that finding.

(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

(A) the date that is 10 days after the date of the contract award; or

(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

(e) The authority of the head of the procuring activity to make findings and to authorize the award and performance of contracts under subsections (c) and (d) of this section may not be delegated.

(f)(1) Within such deadlines as the Comptroller General prescribes, upon request each Federal agency shall provide to an interested party any document relevant to a protested procurement action (including the report required by subsection (b)(2) of this section) that would not give that party a competitive advantage and that the party is otherwise authorized by law to receive.

(2)(A) The Comptroller General may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a party under paragraph (1), that prohibit or restrict the disclosure by the party of information described in subparagraph (B) that is contained in such a document.

(B) Information referred to in subparagraph (A) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

(C) A protective order under this paragraph shall not be considered to authorize the withholding of any document or information from Congress or an executive agency.

(g) If an interested party files a protest in connection with a public-private competition described in section 3551(2)(B) of this title, a person representing a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to the public-private competition may intervene in protest.

(Added Pub. L. 98–369, div. B, title VII, § 2741(a), July 18, 1984, 98 Stat. 1200; amended Pub. L. 103–355, title I, §§ 1402, 1403(c), Oct. 13, 1994, 108 Stat. 3287, 3290; Pub. L. 104–106, div. D, title XLIII, § 4321(d)(2), div. E, title LV, § 5501(1), Feb. 10, 1996, 110 Stat. 674, 698; Pub. L. 108–375, div. A, title III, § 326(c), Oct. 28, 2004, 118 Stat. 1848.)

AMENDMENTS

2004—Subsec. (g). Pub. L. 108–375 added subsec. (g).

1996—Subsec. (b)(2)(A). Pub. L. 104–106, § 5501(1), substituted ''30 days'' for ''35 days''.

Subsec. (b)(3). Pub. L. 104–106, § 4321(d)(2), substituted ''3554(a)(4)'' for ''3554(a)(3)''.

1994—Subsec. (b)(1). Pub. L. 103–355, § 1402(a)(1)(A), substituted ''one day after'' for ''one working day of''.

Subsec. (b)(2)(A). Pub. L. 103–355, § 1402(a)(1)(B)(i), substituted ''35 days after'' for ''25 working days from''.

Subsec. (b)(2)(C). Pub. L. 103–355, § 1402(a)(1)(B)(ii), substituted ''20 days after'' for ''10 working days from''.

Subsec. (c)(3). Pub. L. 103–355, § 1402(a)(2), substituted ''after the making of such finding'' for ''thereafter''.

Subsec. (d). Pub. L. 103–355, § 1402(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

''(d)(1) If a Federal agency receives notice of a protest under this section after the contract has been awarded but within 10 days of the date of the contract award, the Federal agency (except as provided under paragraph (2)) shall, upon receipt of that notice, immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract. Performance of the contract may not be resumed while the protest is pending.

''(2) The head of the procuring activity responsible for award of a contract may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

''(A) upon a written finding—

''(i) that performance of the contract is in the best interests of the United States; or

''(ii) that urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

''(B) after the Comptroller General is notified of that finding.''

Subsec. (f). Pub. L. 103–355, § 1403(c), designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 applicable to protests filed under this subchapter that relate to studies initiated under Office of Management and Budget Circular A–76 on or after the end of the 90-day period beginning on Oct. 28, 2004, see section 326(d) of Pub. L. 108–375, set out as a note under section 3551 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(d)(2) of Pub. L. 104–106, see section 4401 of

Pub. L. 104–106, set out as a note under section 251 of Title 41, Public Contracts.

Amendment by section 5501(1) of Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, div. E, title LVII, Feb. 10, 1996, 110 Stat. 702.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98–369, set out as a note under section 251 of Title 41, Public Contracts.

CONSTRUCTION OF 2004 AMENDMENT

Amendment by Pub. L. 108–375 not to be construed to authorize the use of a protest under this subchapter with regard to a decision made by an agency tender official, see section 326(e) of Pub. L. 108–375, set out as a note under section 3551 of this title.

§ 3554. Decisions on protests

(a)(1) To the maximum extent practicable, the Comptroller General shall provide for the inexpensive and expeditious resolution of protests under this subchapter. Except as provided under paragraph (2) of this subsection, the Comptroller General shall issue a final decision concerning a protest within 100 days after the date the protest is submitted to the Comptroller General.

(2) The Comptroller General shall, by regulation prescribed pursuant to section 3555 of this title, establish an express option for deciding those protests which the Comptroller General determines suitable for resolution within 65 days after the date the protest is submitted.

(3) An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.

(4) The Comptroller General may dismiss a protest that the Comptroller General determines is frivolous or which, on its face, does not state a valid basis for protest.

(b)(1) With respect to a solicitation for a contract, or a proposed award or the award of a contract, protested under this subchapter, the Comptroller General may determine whether the solicitation, proposed award, or award complies with statute and regulation. If the Comptroller General determines that the solicitation, proposed award, or award does not comply with a statute or regulation, the Comptroller General shall recommend that the Federal agency—

(A) refrain from exercising any of its options under the contract;

(B) recompete the contract immediately;

(C) issue a new solicitation;

(D) terminate the contract;

(E) award a contract consistent with the requirements of such statute and regulation;

(F) implement any combination of recommendations under clauses (A), (B), (C), (D), and (E); or

(G) implement such other recommendations as the Comptroller General determines to be necessary in order to promote compliance with procurement statutes and regulations.

(2) If the head of the procuring activity responsible for a contract makes a finding under section 3553(d)(3)(C)(i)(I) of this title, the Comptroller General shall make recommendations under this subsection without regard to any cost or disruption from terminating, recompeting, or reawarding the contract.

(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 days after the end of such 60-day period.

(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

(A) filing and pursuing the protest, including reasonable attorneys' fees and consultant and expert witness fees; and

(B) bid and proposal preparation.

(2) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

(A) costs for consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government; or

(B) costs for attorneys' fees that exceed $150 per hour unless the agency determines, based on the recommendation of the Comptroller General on a case by case basis, that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

(A) pay the costs promptly; or

(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.

(d) Each decision of the Comptroller General under this subchapter shall be signed by the Comptroller General or a designee for that purpose. A copy of the decision shall be made available to the interested parties, the head of the procuring activity responsible for the solicitation, proposed award, or award of the contract, and the senior procurement executive of the Federal agency involved.

(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Reform and Oversight and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

(i) private relief legislation;

(ii) legislative rescission or cancellation of funds;

(iii) further investigation by Congress; or

(iv) other action.

(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 100 days after the date the protest is submitted to the Comptroller General.

(Added Pub. L. 98–369, div. B, title VII, § 2741(a), July 18, 1984, 98 Stat. 1201; amended Pub. L. 100–463, title VIII, § 8139, Oct. 1, 1988, 102 Stat. 2270–47; Pub. L. 103–355, title I, § 1403(a)–(b)(3), Oct. 13, 1994, 108 Stat. 3289, 3290; Pub. L. 104–106, div. D, title XLIII, § 4321(d)(3), div. E, title LV, § 5501(2), Feb. 10, 1996, 110 Stat. 674, 698.)

REFERENCES IN TEXT

Section 3(a) of the Small Business Act, referred to in subsec. (c)(2), is classified to section 632(a) of Title 15, Commerce and Trade.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–106, § 5501(2)(A), substituted ''100 days'' for ''125 days''.

Subsec. (b)(2). Pub. L. 104–106, § 4321(d)(3), substituted ''section 3553(d)(3)(C)(i)(I)'' for ''section 3553(d)(2)(A)(i)''.

Subsec. (e)(1). Pub. L. 104–106, § 5501(2)(B)(i), substituted ''Government Reform and Oversight'' for ''Government Operations''.

Subsec. (e)(2). Pub. L. 104–106, § 5501(2)(B)(ii), substituted ''100 days'' for ''125 days''.

1994—Subsec. (a)(1). Pub. L. 103–355, § 1403(a)(1), substituted ''125 days after'' for ''90 working days from''.

Subsec. (a)(2). Pub. L. 103–355, § 1403(a)(2), substituted ''65 days after'' for ''45 calendar days from''.

Subsec. (a)(3), (4). Pub. L. 103–355, § 1403(a)(3), (4), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(3). Pub. L. 103–355, § 1403(b)(1), added par. (3).

Subsec. (c). Pub. L. 103–355, § 1403(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

''(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may declare an appropriate interested party to be entitled to the costs of—

''(A) filing and pursuing the protest, including reasonable attorneys' fees; and

''(B) bid and proposal preparation.

''(2) Monetary awards to which a party is declared to be entitled under paragraph (1) of this subsection shall be paid promptly by the Federal agency concerned out of funds available to or for the use of the Federal agency for the procurement of property and services.''

Subsec. (e). Pub. L. 103–355, § 1403(b)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

''(e)(1) The head of the procuring activity responsible for the solicitation, proposed award, or award of the contract shall report to the Comptroller General, if the Federal agency has not fully implemented those recommendations within 60 days of receipt of the Comptroller General's recommendations under subsection (b) of this section.

''(2) Not later than January 31 of each year, the Comptroller General shall transmit to Congress a report describing each instance in which a Federal agency did not fully implement the Comptroller General's recommendations during the preceding fiscal year.''

1988—Subsec. (a)(1). Pub. L. 100–463 struck out ''unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period'' after ''submitted to the Comptroller General'' before period at end.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(d)(3) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 251 of Title 41, Public Contracts.

Amendment by section 5501(2) of Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, div. E, title LVII, Feb. 10, 1996, 110 Stat. 702.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98–369, set out as a note under section 251 of Title 41, Public Contracts.

PROMPT PAYMENT OF COSTS UNDER PRIOR LAW

Section 1403(b)(4) of Pub. L. 103–355 provided that: ''Costs to which the Comptroller General declared an

interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act [Oct. 13, 1994], shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly.''

§ 3555. Regulations; authority of Comptroller General to verify assertions

(a) The Comptroller General shall prescribe such procedures as may be necessary to the expeditious decision of protests under this subchapter, including procedures for accelerated resolution of protests under the express option authorized by section 3554(a)(2) of this title. Such procedures shall provide that the protest process may not be delayed by the failure of a party to make a filing within the time provided for the filing.

(b) The procedures shall provide that, in the computation of any period described in this subchapter—

(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

(2) the last day after such act, event, or default be included, unless—

(A) such last day is a Saturday, a Sunday, or a legal holiday; or

(B) in the case of a filing of a paper at the Government Accountability Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the Government Accountability Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.

(d) The Comptroller General may use any authority available under chapter 7 of this title and this chapter to verify assertions made by parties in protests under this subchapter.

(Added Pub. L. 98–369, div. B, title VII, § 2741(a), July 18, 1984, 98 Stat. 1202; amended Pub. L. 103–355, title I, § 1404, Oct. 13, 1994, 108 Stat. 3291; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b)(2)(B). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in two places.

1994—Subsec. (a). Pub. L. 103–355, § 1404(c), substituted ''The Comptroller General'' for ''Not later than January 15, 1985, the Comptroller General''.

Subsecs. (b) to (d). Pub. L. 103–355, § 1404(a), (b), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98–369, set out as a note under section 251 of Title 41, Public Contracts.

§ 3556. Nonexclusivity of remedies; matters included in agency record

This subchapter does not give the Comptroller General exclusive jurisdiction over protests, and nothing contained in this subchapter shall affect the right of any interested party to file a protest with the contracting agency or to file an action in the United States Court of Federal Claims. In any such action based on a procurement or proposed procurement with respect to which a protest has been filed under this subchapter, the reports required by sections 3553(b)(2) and 3554(e)(1) of this title with respect to such procurement or proposed procurement and any decision or recommendation of the Comptroller General under this subchapter with respect to such procurement or proposed procurement shall be considered to be part of the agency record subject to review.

(Added Pub. L. 98–369, div. B, title VII, § 2741(a), July 18, 1984, 98 Stat. 1202; amended Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104–320, § 12(f), Oct. 19, 1996, 110 Stat. 3876.)

AMENDMENTS

1996—Pub. L. 104–320, which directed the amendment of this section by striking ''a court of the United States or'' in first sentence, was executed by striking ''a district court of the United States or'' after ''to file an action in'' in first sentence to reflect the probable intent of Congress.

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–320 effective Jan. 1, 2001, see section 12(f) of Pub. L. 104–320, set out as a Nonexclusivity of GAO Remedies note below.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98–369, set out as a note under section 251 of Title 41, Public Contracts.

NONEXCLUSIVITY OF GAO REMEDIES

Section 12(f) of Pub. L. 104–320 provided that: ''In the event that the bid protest jurisdiction of the district courts of the United States is terminated pursuant to subsection (d) [set out as a Sunset Provision note under section 1491 of Title 28, Judiciary and Judicial Procedure], then section 3556 of title 31, United States Code, shall be amended by striking 'a court of the United States or' in the first sentence.'' [Bid protest jurisdiction of the district courts of the United States terminated on Jan. 1, 2001, pursuant to section 12(d) of Pub. L. 104–320.]

§ 3557. Expedited action in protests of public-private competitions

For any protest of a public-private competition conducted under Office of Management and Budget Circular A–76 with respect to the per-

formance of an activity or function of a Federal agency, the Comptroller General shall administer the provisions of this subchapter in the manner best suited for expediting the final resolution of the protest and the final action in the public-private competition.

(Added Pub. L. 110–181, div. A, title III, § 326(b)(1), Jan. 28, 2008, 122 Stat. 63; amended Pub. L. 110–417, [div. A], title X, § 1061(c)(2), Oct. 14, 2008, 122 Stat. 4613.)

CODIFICATION

Another section 3557, added Pub. L. 110–161, div. D, title VII, § 739(c)(1)(B)(i), Dec. 26, 2007, 121 Stat. 2030, related to an expedited action in protests for public-private competitions, prior to repeal by Pub. L. 110–417, [div. A], title X, § 1061(c)(1), Oct. 14, 2008, 122 Stat. 4613.

AMENDMENTS

2008—Pub. L. 110–417 substituted ''public-private'' for ''Public-Private'' in section catchline.

SUBCHAPTER VI—RECOVERY AUDITS

§ 3561. Identification of errors made by executive agencies in payments to contractors and recovery of amounts erroneously paid

(a) PROGRAM REQUIRED.—The head of each executive agency that enters into contracts with a total value in excess of $500,000,000 in a fiscal year shall carry out a cost-effective program for identifying any errors made in paying the contractors and for recovering any amounts erroneously paid to the contractors.

(b) RECOVERY AUDITS AND ACTIVITIES.—A program of an executive agency under subsection (a) shall include recovery audits and recovery activities. The head of the executive agency shall determine, in accordance with guidance provided under subsection (c), the classes of contracts to which recovery audits and recovery activities are appropriately applied.

(c) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance for the conduct of programs under subsection (a). The guidance shall include the following:

(1) Definitions of the terms ''recovery audit'' and ''recovery activity'' for the purposes of the programs.

(2) The classes of contracts to which recovery audits and recovery activities are appropriately applied under the programs.

(3) Protections for the confidentiality of—

(A) sensitive financial information that has not been released for use by the general public; and

(B) information that could be used to identify a person.

(4) Policies and procedures for ensuring that the implementation of the programs does not result in duplicative audits of contractor records.

(5) Policies regarding the types of contracts executive agencies may use for the procurement of recovery services, including guidance for use, in appropriate circumstances, of a contingency contract pursuant to which the head of an executive agency may pay a contractor an amount equal to a percentage of the total amount collected for the United States pursuant to that contract.

(6) Protections for a contractor's records and facilities through restrictions on the authority of a contractor under a contract for the procurement of recovery services for an executive agency—

(A) to require the production of any record or information by any person other than an officer, employee, or agent of the executive agency;

(B) to establish, or otherwise have, a physical presence on the property or premises of any private sector entity for the purposes of performing the contract; or

(C) to act as agents for the Government in the recovery of funds erroneously paid to contractors.

(7) Policies for the appropriate types of management improvement programs authorized by section 3564 of this title that executive agencies may carry out to address overpayment problems and the recovery of overpayments.

(Added Pub. L. 107–107, div. A, title VIII, § 831(a)(1), Dec. 28, 2001, 115 Stat. 1186.)

REPORTS ON IMPLEMENTATION OF RECOVERY AUDITS

Pub. L. 107–107, div. A, title VIII, § 831(b), Dec. 28, 2001, 115 Stat. 1188, provided that:

''(1) Not later than 30 months after the date of the enactment of this Act [Dec. 28, 2001], and annually for each of the first two years following the year of the first report, the Director of the Office of Management and Budget shall submit to the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, a report on the implementation of subchapter VI of chapter 35 of title 31, United States Code (as added by subsection (a)).

''(2) Each report shall include—

''(A) a general description and evaluation of the steps taken by the heads of executive agencies to carry out the programs under such subchapter, including any management improvement programs carried out under section 3564 of such title 31;

''(B) the costs incurred by executive agencies to carry out the programs under such subchapter; and

''(C) the amounts recovered under the programs under such subchapter.''

§ 3562. Disposition of recovered funds

(a) AVAILABILITY OF FUNDS FOR RECOVERY AUDITS AND ACTIVITIES PROGRAM.—Funds collected under a program carried out by an executive agency under section 3561 of this title shall be available to the executive agency for the following purposes:

(1) To reimburse the actual expenses incurred by the executive agency in the administration of the program.

(2) To pay contractors for services under the program in accordance with the guidance issued under section 3561(c)(5) of this title.

(b) FUNDS NOT USED FOR PROGRAM.—Any amounts erroneously paid by an executive agency that are recovered under such a program of an executive agency and are not used to reimburse expenses or pay contractors under subsection (a)—

(1) shall be credited to the appropriations from which the erroneous payments were made, shall be merged with other amounts in

those appropriations, and shall be available for the purposes and period for which such appropriations are available; or

(2) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts.

(c) PRIORITY OF OTHER AUTHORIZED DISPOSITIONS.—Notwithstanding subsection (b), the authority under such subsection may not be exercised to use, credit, or deposit funds collected under such a program as provided in that subsection to the extent that any other provision of law requires or authorizes the crediting of such funds to a nonappropriated fund instrumentality, revolving fund, working-capital fund, trust fund, or other fund or account.

(Added Pub. L. 107–107, div. A, title VIII, § 831(a)(1), Dec. 28, 2001, 115 Stat. 1187.)

§ 3563. Sources of recovery services

(a) CONSIDERATION OF AVAILABLE RECOVERY RESOURCES.—(1) In carrying out a program under section 3561 of this title, the head of an executive agency shall consider all resources available to that official to carry out the program.

(2) The resources considered by the head of an executive agency for carrying out the program shall include the resources available to the executive agency for such purpose from the following sources:

(A) The executive agency.

(B) Other departments and agencies of the United States.

(C) Private sector sources.

(b) COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS.—Before entering into a contract with a private sector source for the performance of services under a program of the executive agency carried out under section 3561 of this title, the head of an executive agency shall comply with—

(1) any otherwise applicable provisions of Office of Management and Budget Circular A–76; and

(2) any other applicable provision of law or regulation with respect to the selection between employees of the United States and private sector sources for the performance of services.

(Added Pub. L. 107–107, div. A, title VIII, § 831(a)(1), Dec. 28, 2001, 115 Stat. 1187.)

§ 3564. Management improvement programs

In accordance with guidance provided by the Director of the Office of Management and Budget under section 3561 of this title, the head of an executive agency required to carry out a program under such section 3561 may carry out a program for improving management processes within the executive agency—

(1) to address problems that contribute directly to the occurrence of errors in the paying of contractors of the executive agency; or

(2) to improve the recovery of overpayments due to the agency.

(Added Pub. L. 107–107, div. A, title VIII, § 831(a)(1), Dec. 28, 2001, 115 Stat. 1188.)

§ 3565. Relationship to authority of Inspectors General

Nothing in this subchapter shall be construed as impairing the authority of an Inspector General under the Inspector General Act of 1978 or any other provision of law.

(Added Pub. L. 107–107, div. A, title VIII, § 831(a)(1), Dec. 28, 2001, 115 Stat. 1188.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3566. Privacy protections

Any nongovernmental entity that, in the course of recovery auditing or recovery activity under this subchapter, obtains information that identifies an individual or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual, may not disclose the information for any purpose other than such recovery auditing or recovery activity and governmental oversight of such activity, unless disclosure for that other purpose is authorized by the individual to the executive agency that contracted for the performance of the recovery auditing or recovery activity.

(Added Pub. L. 107–107, div. A, title VIII, § 831(a)(1), Dec. 28, 2001, 115 Stat. 1188.)

§ 3567. Definition of executive agency

Notwithstanding section 102 of this title, in this subchapter, the term ''executive agency'' has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(Added Pub. L. 107–107, div. A, title VIII, § 831(a)(1), Dec. 28, 2001, 115 Stat. 1188.)

CHAPTER 37—CLAIMS

SUBCHAPTER I—GENERAL

Sec.
3701. Definitions and application.
3702. Authority to settle claims.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

3711. Collection and compromise.
3712. Time limitations for presenting certain claims of the Government.
3713. Priority of Government claims.
3714. Keeping money due States in default.
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3717. Interest and penalty on claims.
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3720. Collection of payments.
3720A. Reduction of tax refund by amount of debt.
3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees.
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SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss.

Sec.
3722. Claims of officers and employees at Government penal and correctional institutions.
3723. Small claims for privately owned property damage or loss.
3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice.
3725. Claims of non-nationals for personal injury or death in a foreign country.
3726. Payment for transportation.
3727. Assignments of claims.
3728. Setoff against judgment.
3729. False claims.
3730. Civil actions for false claims.
3731. False claims procedure.
3732. False claims jurisdiction.
3733. Civil investigative demands.

AMENDMENTS

1996—Pub. L. 104–316, title II, § 202(n)(2), Oct. 19, 1996, 110 Stat. 3844, substituted ''Authority to settle claims'' for ''Authority of the Comptroller General to settle claims'' in item 3702.

Pub. L. 104–134, title III, § 31001(j)(2), (*o*)(2), (r)(2), (t)(2), Apr. 26, 1996, 110 Stat. 1321–365, 1321–371, 1321–373, 1321–375, added items 3720B to 3720E.

1989—Pub. L. 101–203, § 1(b)(2), Dec. 7, 1989, 103 Stat. 1805, substituted ''investigative or law enforcement officers of the Department of Justice'' for ''the Federal Bureau of Investigation'' in item 3724.

1986—Pub. L. 99–562, § 6(b), Oct. 27, 1986, 100 Stat. 3168, added items 3732 and 3733.

1984—Pub. L. 98–369, div. B, title VI, §§ 2652(a)(2), 2653(a)(2), July 18, 1984, 98 Stat. 1152, 1154, added items 3720 and 3720A.

1983—Pub. L. 97–452, § 1(13)(B), (16)(B), Jan. 12, 1983, 96 Stat. 2470, 2474, inserted ''and application'' in item 3701 and added items 3716–3719.

SUBCHAPTER I—GENERAL

§ 3701. Definitions and application

(a) In this chapter—

(1) ''administrative offset'' means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

(2) ''calendar quarter'' means a 3-month period beginning on January 1, April 1, July 1, or October 1.

(3) ''consumer reporting agency'' means—

(A) a consumer reporting agency as that term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

(B) a person that, for money or on a cooperative basis, regularly—

(i) gets information on consumers to give the information to a consumer reporting agency; or

(ii) serves as a marketing agent under an arrangement allowing a third party to get the information from a consumer reporting agency.

(4) ''executive, judicial, or legislative agency'' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including government corporations.

(5) ''military department'' means the Departments of the Army, Navy, and Air Force.

(6) ''system of records'' has the same meaning given that term in section 552a(a)(5) of title 5.

(7) ''uniformed services'' means the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service.

(8) ''nontax'' means, with respect to any debt or claim, any debt or claim other than a debt or claim under the Internal Revenue Code of 1986.

(b)(1) In subchapter II of this chapter and subsection (a)(8) of this section, the term ''claim'' or ''debt'' means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

(A) funds owed on account of loans made, insured, or guaranteed by the Government, including any deficiency or any difference between the price obtained by the Government in the sale of a property and the amount owed to the Government on a mortgage on the property,

(B) expenditures of nonappropriated funds, including actual and administrative costs related to shoplifting, theft detection, and theft prevention,

(C) over-payments, including payments disallowed by audits performed by the Inspector General of the agency administering the program,

(D) any amount the United States is authorized by statute to collect for the benefit of any person,

(E) the unpaid share of any non-Federal partner in a program involving a Federal payment and a matching, or cost-sharing, payment by the non-Federal partner,

(F) any fines or penalties assessed by an agency;[1] and

(G) other amounts of money or property owed to the Government.

(2) For purposes of section 3716 of this title, each of the terms ''claim'' and ''debt'' includes an amount of funds or property owed by a person to a State (including any past-due support being enforced by the State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.

(c) In sections 3716 and 3717 of this title, the term ''person'' does not include an agency of the United States Government.

(d) Sections 3711(e) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under—

(1) the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.),

(2) the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under sections 204(f) and 1631(b)(4) of such Act and section 3716(c) of this title, or

(3) the tariff laws of the United States.

(e) In section 3716 of this title—

(1) ''creditor agency'' means any agency owed a claim that seeks to collect that claim through administrative offset; and

[1] So in original. The semicolon probably should be a comma.

(2) ''payment certifying agency'' means any agency that has transmitted a voucher to a disbursing official for disbursement.

(f) In section 3711 of this title, ''private collection contractor'' means private debt collectors under contract with an agency to collect a nontax debt or claim owed the United States. The term includes private debt collectors, collection agencies, and commercial attorneys.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 970; Pub. L. 97–452, §1(13)(A), Jan. 12, 1983, 96 Stat. 2469; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–387, §5(b), Oct. 22, 1994, 108 Stat. 4077; Pub. L. 104–134, title III, §31001(c)(2), (d)(1), (3), (z)(1), Apr. 26, 1996, 110 Stat. 1321–359, 1321–361, 1321–378; Pub. L. 104–316, title I, §115(g)(2)(A), Oct. 19, 1996, 110 Stat. 3835; Pub. L. 106–169, title II, §203(b), Dec. 14, 1999, 113 Stat. 1832; Pub. L. 107–107, div. A, title III, §335, Dec. 28, 2001, 115 Stat. 1060.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3701(1)	31:951.	July 19, 1966, Pub. L. 89–508, §2, 80 Stat. 308.
3701(2)	31:240(1), (4).	Aug. 31, 1964, Pub. L. 88–558, §2(1), (2), (4), 78 Stat. 767; restated Sept. 15, 1965, Pub. L. 89–185, §3(a), 79 Stat. 789.
3701(3)	31:240(2).	

Clause (1) is substituted for 31:951(a) for consistency. The text of 31:951(b) is omitted as unnecessary because of laws vesting authority in the commission, board, or other group of individuals and for consistency in the revised title and with other titles of the United States Code.

In clause (2), the text of 31:240(1) is omitted as unnecessary because of the restatement.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3701(a)(1)	31 App.:954(e)(1).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §5(e); added Oct. 25, 1982, Pub. L. 97–365, §10(2), 96 Stat. 1755.
3701(a)(2)	31 App.:952(e)(1) (last sentence).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(e)(1)(last sentence), (8); added Oct. 25, 1982, Pub. L. 97–365, §11, 96 Stat. 1755, 1756.
3701(a)(3)	31 App.:952(d)(4) (A).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(d)(4); added Oct. 25, 1982, Pub. L. 97–365, §3, 96 Stat. 1750.
3701(a)(4), (5).	31:3701(1), (2).	
3701(a)(6)	31 App.:952(d)(4) (B), (C).	
3701(a)(7)	31:3701(3).	
3701(b)	31 App.:952(g).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, §3(g); added Oct. 25, 1982, Pub. L. 97–365, §13(b), 96 Stat. 1758.
3701(c)	31 App.:952(e)(8). 31 App.:954(e)(2).	
3701(d)	31 App.:954(note) (related to 31 App.:952(d)–(f), 954, 955).	Oct. 25, 1982, Pub. L. 97–365, §8(e)(related to §§3, 10(2)–12, 13(b)), 96 Stat. 1754.

In subsections (a)(1), (b), and (c), the word ''Government'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3)(B), before clause (i), the word ''money'' is substituted for ''monetary fees, dues'' to eliminate unnecessary words. The words ''engages in whole or in part in the practice of'' are omitted as surplus. In clause (i), the words ''credit or other'' and ''(as defined in clause (i) of this subparagraph)'' are omitted as surplus.

In subsection (a)(6), 31 App.:952(d)(4)(C) is omitted as unnecessary.

In subsection (b), the words ''all . . . from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, taxes, forfeitures, and other sources'' are omitted as surplus.

In subsection (c), the words ''unit of general'' are added for consistency in the revised title.

In subsection (d), the word ''arising'' is omitted as surplus.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(8) and (d)(1), is classified to Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (d)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Sections 204(f) and 1631(b)(4) of the Act are classified to sections 404(f) and 1383(b)(4), respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The tariff laws of the United States, referred to in subsec. (d)(3), are classified generally to Title 19, Customs Duties.

AMENDMENTS

2001—Subsec. (b)(1)(B). Pub. L. 107–107 inserted '', including actual and administrative costs related to shoplifting, theft detection, and theft prevention'' before comma at end.

1999—Subsec. (d)(2). Pub. L. 106–169 substituted ''sections 204(f) and 1631(b)(4)'' for ''section 204(f)''.

1996—Subsec. (a)(1). Pub. L. 104–134, §31001(z)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''‘administrative offset’ means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.''

Subsec. (a)(4). Pub. L. 104–134, §31001(c)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''‘executive or legislative agency’ means a department, agency, or instrumentality in the executive or legislative branch of the Government.''

Subsec. (a)(8). Pub. L. 104–134, §31001(d)(3), added par. (8).

Subsec. (b). Pub. L. 104–134, §31001(z)(1)(B), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''In subchapter II of this chapter, ‘claim’ includes amounts owing on account of loans insured or guaranteed by the Government and other amounts due the Government.''

Subsec. (c). Pub. L. 104–134, §31001(d)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''In sections 3716 and 3717 of this title, ‘person’ does not include an agency of the United States Government, of a State government, or of a unit of general local government.''

Subsec. (d). Pub. L. 104–316 substituted ''Sections 3711(e)'' for ''Sections 3711(f)'' in introductory provisions.

Pub. L. 104–134, §31001(z)(1)(D), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)),, or the tariff laws of the United States.''

Subsecs. (e), (f). Pub. L. 104–134, §31001(z)(1)(C), added subsecs. (e) and (f).

1994—Subsec. (d). Pub. L. 103–387 inserted '', except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)),'' after ''the Social Security Act (42 U.S.C. 301 et seq.)''.

1986—Subsec. (d). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1983—Pub. L. 97–452 designated existing provisions as subsec. (a), added pars. (1), (2), and (3), redesignated former par. (1) as (4) and substituted ''Government'' for ''United States Government'', redesignated former par. (2) as (5), added par. (6), redesignated former par. (3) as (7) and struck out ''the'' before ''Commissioned Corps'' in two places, and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–169, title II, § 203(d), Dec. 14, 1999, 113 Stat. 1832, provided that: ''The amendments made by this section [amending this section and sections 404 and 1383 of Title 42, The Public Health and Welfare] shall apply to debt outstanding on or after the date of the enactment of this Act [Dec. 14, 1999].''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 5(c) of Pub. L. 103–387, as amended by Pub. L. 104–134, title III, § 31001(z)(2)(B), Apr. 26, 1996, 110 Stat. 1321–379, provided that: ''The amendments made by this section [amending this section and section 404 of Title 42, The Public Health and Welfare] shall apply to collection activities begun on or after the date of the enactment of this Act [Oct. 22, 1994].''

SHORT TITLE OF 1996 AMENDMENT

Section 31001(a)(1) of Pub. L. 104–134 provided that: ''This section [enacting sections 3720B to 3720E of this title, amending this section, sections 3322, 3325, 3331, 3332, 3343, 3711, 3712, 3716 to 3719, 3720A, and 7701 of this title, section 5514 of Title 5, Government Organization and Employees, sections 6050P, 6103, and 6402 of Title 26, Internal Revenue Code, and sections 404 and 664 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section, sections 3322, 3711, 3716, and 3719 of this title, and section 2461 of Title 28, Judiciary and Judicial Procedure, amending provisions set out as notes under this section and section 2461 of Title 28, and repealing provisions set out as notes under section 3718 of this title] may be cited as the 'Debt Collection Improvement Act of 1996'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–562, § 1, Oct. 27, 1986, 100 Stat. 3153, provided that: ''This Act [enacting sections 3732 and 3733 of this title and amending sections 3729 to 3731 of this title and section 287 of Title 18, Crimes and Criminal Procedure] may be cited as the 'False Claims Amendments Act of 1986'.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PURPOSES OF 1996 AMENDMENT

Section 31001(b) of Pub. L. 104–134 provided that: ''The purposes of this section [see Short Title of 1996 Amendment note above] are the following:

''(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.

''(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.

''(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies.

''(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their financial obligations to repay amounts owed to the Federal Government.

''(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

''(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

''(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.''

UNITED STATES SENATE AS LEGISLATIVE AGENCY; REGULATIONS PROMULGATED BY SECRETARY OF SENATE

Pub. L. 101–163, title I, § 11, Nov. 21, 1989, 103 Stat. 1046, provided that:

''(a) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

''(b) Regulations prescribed by the Secretary of the Senate pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Senate Committee on Rules and Administration.''

§ 3702. Authority to settle claims

(a) Except as provided in this chapter or another law, all claims of or against the United States Government shall be settled as follows:

(1) The Secretary of Defense shall settle—

(A) claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits; and

(B) claims by transportation carriers involving amounts collected from them for loss or damage incurred to property incident to shipment at Government expense.

(2) The Director of the Office of Personnel Management shall settle claims involving Federal civilian employees' compensation and leave.

(3) The Administrator of General Services shall settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.

(4) The Director of the Office of Management and Budget shall settle claims not otherwise provided for by this subsection or another provision of law.

(b)(1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—

(A) as provided in this chapter or another law; or

(B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

(2) When the claim of a member of the armed forces accrues during war or within 5 years be-

fore war begins, the claim must be received within 5 years after peace is established or within the period provided in paragraph (1) of this subsection, whichever is later.

(3) A claim that is not received in the time required under this subsection shall be returned with a copy of this subsection, and no further communication is required.

(c) ONE-YEAR LIMIT FOR CHECK CLAIMS.—(1) Any claim on account of a Treasury check shall be barred unless it is presented to the agency that authorized the issuance of such check within 1 year after the date of issuance of the check or the effective date of this subsection, whichever is later.

(2) Nothing in this subsection affects the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(d) The official responsible under subsection (a) for settling the claim shall report to Congress on a claim against the Government that is timely presented under this section that may not be adjusted by using an existing appropriation, and that the official believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the official.

(e)(1) The Secretary of Defense may waive the time limitations set forth in subsection (b) or (c) in the case of a claim referred to in subsection (a)(1)(A). In the case of a claim by or with respect to a member of the uniformed services who is not under the jurisdiction of the Secretary of a military department, such a waiver may be made only upon the request of the Secretary concerned (as defined in section 101 of title 37).

(2) Payment of a claim settled under subsection (a)(1)(A) shall be made from an appropriation that is available, for the fiscal year in which the payment is made, for the same purpose as the appropriation to which the obligation claimed would have been charged if the obligation had been timely paid, except that in the case of a claim for retired pay or survivor benefits, if the obligation claimed would have been paid from a trust fund if timely paid, the payment of the claim shall be made from that trust fund.

(3) This subsection does not apply to a claim in excess of $25,000.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 970; Pub. L. 97–452, § 1(14), Jan. 12, 1983, 96 Stat. 2470; Pub. L. 100–86, title X, § 1004(b), Aug. 10, 1987, 101 Stat. 659; Pub. L. 104–201, div. A, title VI, § 608, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 104–316, title II, § 202(n)(1), Oct. 19, 1996, 110 Stat. 3843; Pub. L. 105–85, div. A, title X, § 1012, Nov. 18, 1997, 111 Stat. 1874; Pub. L. 106–398, § 1 [[div. A], title VI, § 664], Oct. 30, 2000, 114 Stat. 1654, 1654A–168; Pub. L. 107–314, div. A, title VI, § 635(a), (b), Dec. 2, 2002, 116 Stat. 2574; Pub. L. 109–163, div. A, title X, § 1056(e)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3702(a)	31:44(1st sentence).	June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24.

HISTORICAL AND REVISION NOTES—CONTINUED

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	31:71(related to claims).	R.S. § 236(related to claims); June 10, 1921, ch. 18, § 305, 42 Stat. 24.
	31:86.	July 31, 1894, ch. 174, § 14, 28 Stat. 210.
3702(b)(1)	31:71a(1)(less proviso).	Oct. 9, 1940, ch. 788, 54 Stat. 1061; Jan. 2, 1975, Pub. L. 93–604, § 801, 88 Stat. 1965.
	31:237(1)(less proviso).	
3702(b)(2)	31:71a(1)(proviso).	
	31:237(1)(proviso).	
3702(b)(3)	31:71a(2).	
	31:237(2).	
3702(c)	31:122.	June 22, 1926, ch. 650, § 2, 44 Stat. 761; Aug. 28, 1957, Pub. L. 85–183, § 3(a), 71 Stat. 465.
3702(d)	31:236.	Apr. 10, 1928, ch. 334, 45 Stat. 413.

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (a), the words ''Except as provided in this chapter or another law'' are added for clarity. The words ''and demands whatever'' and ''and adjusted'' are omitted as surplus. The words ''officers or employees of the General Accounting Office'' are substituted for ''of his subordinates'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), before clause (A), the words ''or demand'' are omitted as surplus. The word ''Government'' is substituted for ''United States'' for consistency in the revised title and with other titles of the Code. The word ''representative'' is substituted for ''agent or attorney'' to eliminate unnecessary words. The words ''received by the Comptroller General'' are substituted for ''received in said office'' for clarity and consistency. The words ''the date'' are omitted as surplus. Clause (A) is added for clarity. In clause (B), the words ''cognizable by the General Accounting Office under sections 71 and 236 of this title'' are omitted as unnecessary because of the restatement.

In subsection (b)(2), the words ''member of the armed forces'' are substituted for ''person serving in the military or naval forces of the United States'' for consistency with title 10. The words ''to the Comptroller General'' are added for clarity.

In subsection (b)(3), the words ''to the claimant'' are omitted as surplus. The words ''not received in the time required'' are substituted for ''barred by'' because of the restatement. The words ''no further communication is required'' are substituted for ''such action shall be a complete response without further communication'' to eliminate unnecessary words.

In subsection (c), the text of 31:122(1st sentence words before 2d comma and last sentence) is omitted as executed. The words ''Secretary of the Treasury'' are substituted for ''Treasury Department'' for consistency. The word ''Secretary'' is substituted for ''Treasurer of the United States'' because of Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280).

In subsection (d), the words ''report . . . on'' are substituted for ''submit the same . . . by a special report . . . the material facts'' to eliminate unnecessary words. The words ''or demand'' are omitted as surplus. The word ''Government'' is substituted for ''United States'', and the words ''presented under this section'' are substituted for ''filed in the General Accounting Office'' for consistency. The words ''lawfully'', ''the use of'', and ''thereon'' are omitted as surplus.

1983 ACT

This amends 31:3702(b)(2) by inserting a word inadvertently omitted in the codification of title 31.

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (c)(1), probably means the effective date of sub-

sec. (c) of this section as amended by section 1004(b) of Pub. L. 100–86, which is effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations. See Effective Date of 1987 Amendment note below.

AMENDMENTS

2006—Subsec. (e)(1). Pub. L. 109–163 amended directory language of Pub. L. 107–314, § 635(a). See 2002 Amendment note below.

2002—Subsec. (e)(1). Pub. L. 107–314, § 635(b)(1), substituted ''The Secretary of Defense'' for ''Upon the request of the Secretary concerned (as defined in section 101 of title 37, United States Code), the Secretary of Defense'', struck out ''and, subject to paragraph (2), settle the claim'' before period at end of first sentence, and inserted at end ''In the case of a claim by or with respect to a member of the uniformed services who is not under the jurisdiction of the Secretary of a military department, such a waiver may be made only upon the request of the Secretary concerned (as defined in section 101 of title 37).''

Pub. L. 107–314, § 635(a), as amended by Pub. L. 109–163, substituted ''a claim referred to in subsection (a)(1)(A)'' for ''a claim for pay, allowances, or payment for unused accrued leave under title 37 or a claim for retired pay under title 10''.

Subsec. (e)(2). Pub. L. 107–314, § 635(b)(2), substituted ''under subsection (a)(1)(A)'' for ''under paragraph (1)'' and inserted before period at end '', except that in the case of a claim for retired pay or survivor benefits, if the obligation claimed would have been paid from a trust fund if timely paid, the payment of the claim shall be made from that trust fund''.

2000—Subsec. (a)(1)(A). Pub. L. 106–398, § 1 [[div. A], title VI, § 664(a)], inserted ''payments for unused accrued leave,'' after ''transportation,''.

Subsec. (e)(1). Pub. L. 106–398, § 1 [[div. A], title VI, § 664(b)], substituted ''claim for pay, allowances, or payment for unused accrued leave under title 37 or a claim for retired pay under title 10'' for ''claim for pay or allowances provided under title 37''.

1997—Subsec. (e)(1). Pub. L. 105–85, § 1012(1), substituted ''Secretary of Defense'' for ''Comptroller General''.

Subsec. (e)(2). Pub. L. 105–85, § 1012(2), added par. (2) and struck out former par. (2) which read as follows: ''Payment of a claim settled under paragraph (1) shall be subject to the availability of appropriations for payment of that particular claim.''

1996—Pub. L. 104–316, § 202(n)(1)(A), struck out ''of the Comptroller General'' after ''Authority'' in section catchline.

Subsec. (a). Pub. L. 104–316, § 202(n)(1)(B), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other.''

Subsec. (b)(1). Pub. L. 104–316, § 202(n)(1)(C), in introductory provisions substituted ''The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues except—'' for ''The claim must be received by the Comptroller General within 6 years after the claim accrues except—''.

Subsec. (b)(2). Pub. L. 104–316, § 202(n)(1)(D), substituted ''received'' for ''presented to the Comptroller General'' and ''in paragraph'' for ''in clause''.

Subsec. (b)(3). Pub. L. 104–316, § 202(n)(1)(E), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required.''

Subsec. (d). Pub. L. 104–316, § 202(n)(1)(F), substituted ''official responsible under subsection (a) for settling the claim'' for ''Comptroller General'' before ''shall report to Congress'' and ''official'' for ''Comptroller General'' before ''believes'' and before period at end.

Subsec. (e). Pub. L. 104–201 added subsec. (e).

1987—Subsec. (c). Pub. L. 100–86 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''A claim on a check or warrant that the records of the Comptroller General or the Secretary of the Treasury show as being paid must be presented to the Comptroller General or the Secretary within 6 years after the check or warrant was issued.''

1983—Subsec. (b)(2). Pub. L. 97–452 inserted ''this'' before ''subsection''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VI, § 635(c), Dec. 2, 2002, 116 Stat. 2574, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to claims against the United States presented to the Secretary of Defense under section 3702 of title 31, United States Code, on or after the date of the enactment of this Act [Dec. 2, 2002].''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100–86, set out as a note under section 3328 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment effective Sept. 13, 1982, see section 2(i) of Pub. L. 97–452, set out as a note under section 3331 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement amendment by section 1004(b) of Pub. L. 100–86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100–86, set out as a note under section 3328 of this title.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

§ 3711. Collection and compromise

(a) The head of an executive, judicial, or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than $100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe that has not been referred to another executive or legislative agency for further collection action, except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b)(1) The head of an executive, judicial, or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that ap-

pears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than $500 a penalty under section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters.

(c) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(d) The head of an executive, judicial, or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General, the Secretary of the Treasury, may prescribe.[1]

(e)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), the head of an executive, judicial, or legislative agency shall disclose to a consumer reporting agency information from a system of records that a person is responsible for a claim if—

(A) notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency;

(B) the head of the agency has reviewed the claim and decided that the claim is valid and overdue;

(C) the head of the agency has notified the person in writing—

(i) that payment of the claim is overdue;

(ii) that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the person is responsible for the claim;

(iii) of the specific information to be disclosed to the consumer reporting agency; and

(iv) of the rights the person has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative repeal or review of the claim;

(D) the person has not—

(i) repaid or agreed to repay the claim under a written repayment plan that the person has signed and the head of the agency has agreed to; or

(ii) filed for review of the claim under paragraph (2) of this subsection;

(E) the head of the agency has established procedures to—

(i) disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

(ii) verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and

(iii) get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and

(F) the information disclosed to the consumer reporting agency is limited to—

(i) information necessary to establish the identity of the person, including name, address, and taxpayer identification number;

(ii) the amount, status, and history of the claim; and

(iii) the agency or program under which the claim arose.

(2) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection and at other times allowed by law, the head of an executive, judicial, or legislative agency shall provide, on request of a person alleged by the agency to be responsible for the claim, for a review of the obligation of the person, including an opportunity for reconsideration of the initial decision on the claim.

(3) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection, the head of an executive, judicial, or legislative agency shall take reasonable action to locate a person for whom the head of the agency does not have a current address to send the notice under paragraph (1)(C).

(4) The head of each executive agency shall require, as a condition for insuring or guaranteeing any loan, financing, or other extension of credit under any law to a person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.

(f)(1) The Secretary of Defense may suspend or terminate an action by the Secretary or by the Secretary of a military department under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(2) The Secretary of Homeland Security may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Coast Guard if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

[1] So in original. Probably should be ''Attorney General and the Secretary of the Treasury may prescribe jointly.''

(3) The Secretary of Veterans Affairs may suspend or terminate an action by the Secretary under subsection (a) to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.

(4) In this subsection, the term ''active duty'' has the meaning given that term in section 101 of title 10.

(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

(2) Paragraph (1) shall not apply—

(A) to any debt or claim that—

(i) is in litigation or foreclosure;

(ii) will be disposed of under an asset sales program within 1 year after becoming eligible for sale, or later than 1 year if consistent with an asset sales program and a schedule established by the agency and approved by the Director of the Office of Management and Budget;

(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

(B) a private collection contractor operating under a contract for servicing or collection action; or

(C) the Department of Justice for litigation.

(5) Nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

(A) maintain competition in carrying out this subsection;

(B) maximize collections of delinquent debts by placing delinquent debts quickly;

(C) maintain a schedule of private collection contractors and debt collection centers eligible for referral of claims; and

(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section[2] as the ''Account''). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

(B) personnel training and travel costs;

(C) other personnel and administrative costs;

(D) the costs of any contract for identification, billing, or collection services; and

(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

(8) Not later than January 1 of each year, there shall be deposited into the Treasury as

[2] So in original.

miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

(9) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable)—

(A) administrative offset,

(B) tax refund offset,

(C) Federal salary offset,

(D) referral to private collection contractors,

(E) referral to agencies operating a debt collection center,

(F) reporting delinquencies to credit reporting bureaus,

(G) garnishing the wages of delinquent debtors, and

(H) litigation or foreclosure.

(10) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary and transfer such funds from funds appropriated to the Department of the Treasury as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues that result from debt collections.

(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(i)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

(3) Sales of nontax debt under this subsection—

(A) shall be for—

(i) cash, or

(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1996, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

(v) The marketability of all debts.

(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 97–452, § 1(15), Jan. 12, 1983, 96 Stat. 2470; Pub.

L. 98–216, § 1(5), Feb. 14, 1984, 98 Stat. 4; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–552, § 8(b), Nov. 15, 1990, 104 Stat. 2746; Pub. L. 102–365, § 4(a)(4), Sept. 3, 1992, 106 Stat. 973; Pub. L. 103–272, § 5(i)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 104–106, div. A, title X, § 1089, Feb. 10, 1996, 110 Stat. 459; Pub. L. 104–134, title III, § 31001(c)(1), (g)(1)(C), (k), (m)(1), (p), Apr. 26, 1996, 110 Stat. 1321–359, 1321–363, 1321–365, 1321–366, 1321–371; Pub. L. 104–201, div. A, title X, § 1010, Sept. 23, 1996, 110 Stat. 2635; Pub. L. 104–316, title I, § 115(g)(1), Oct. 19, 1996, 110 Stat. 3834; Pub. L. 109–241, title IX, § 902(b)(4), July 11, 2006, 120 Stat. 566; Pub. L. 110–389, title VIII, § 801(a), Oct. 10, 2008, 122 Stat. 4185.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3711(a)	31:952(a)(less words between 1st and 2d commas), (b)(1st sentence less words between 6th and 7th commas).	July 19, 1966, Pub. L. 89–508, § 3, 80 Stat. 309.
3711(b)	31:952(b)(2d sentence, last sentence words after semicolon).	
3711(c)(1)	31:952(b)(last sentence words before semicolon).	
3711(c)(2)	31:952(note).	July 8, 1976, Pub. L. 94–348, § 3(e), 90 Stat. 818.
3711(d)	31:952(c).	
3711(e)	31:952(a)(words between 1st and 2d commas), (b)(1st sentence words between 6th and 7th commas).	

In the section, the words ''executive or legislative agency'' are substituted for ''agency'' because of the restatement. The words ''or his designee'' are omitted as unnecessary.

In subsection (a), the word ''Government'' is added for consistency. In clause (2), the words ''including the General Accounting Office'' are omitted as surplus. In clause (3), the word ''financial'' is omitted as surplus.

In subsections (b) and (d), the word ''official'' is substituted for ''officer'' for consistency.

In subsection (b), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The words ''has the same authority that the head of the agency has'' are substituted for ''have the foregoing authority'' for clarity. The words ''by another agency'' are omitted as surplus. The words ''only . . . may compromise'' are substituted for ''nor shall the head of an agency, other than . . . have authority to compromise'' to eliminate unnecessary words.

In subsection (c)(1), the words ''that appears to be fraudulent, false, or misrepresented by'' are substituted for ''as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of'' to eliminate unnecessary words. The words ''the debtor or . . . other'' and ''in whole or in part'' are omitted as surplus.

In subsection (c)(2), the words ''Notwithstanding any provision of the Federal Claims Collection Act of 1966'' are omitted as unnecessary. The words ''arising'' and ''an amount'' are omitted as surplus.

In subsection (d), the words ''effected . . . authority conferred by'', ''on the debtor and on all officials, agencies, and courts of the United States'', ''destroyed'', and ''with a person primarily responsible'' are omitted as surplus.

In subsection (e), the words ''in conformity with'' are omitted as surplus.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3711(f)(1)	31 App.:952(d)(1).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, § 3(d)(1)–(3); added Oct. 25, 1982, Pub. L. 97–365, § 3, 96 Stat. 1749.
3711(f)(2)	31 App.:952(d)(2).	
3711(f)(3)	31 App.:952(d)(3).	

In subsection (f)(1), before clause (A), the word ''Government'' is substituted for ''United States'' for consistency in the revised title and with other titles of the United States Code. The words ''subsection (a) of this section, or under any other'' are omitted as surplus. The word ''law'' is substituted for ''statutory authority'' to eliminate unnecessary words. In clause (A), the words ''for the system of records'' are omitted as surplus. In clause (C)(iii), the word ''intended'' is omitted as surplus. In clause (E)(ii), the words ''as appropriate'' and ''any or all'' are omitted as surplus. In clause (E)(iii), the words ''all laws of the United States'' are coextensive with and substituted for ''the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law''.

1984 ACT

This is necessary to reflect the transfer of the nonpositive law provisions of title 49 to title 49 appendix.

REFERENCES IN TEXT

Sections 502(7), 502(8), and 504(b) of the Federal Credit Reform Act of 1990, referred to in subsec. (i)(1), (4)(B), are classified to sections 661a(7), 661a(8), and 661c(b), respectively, of Title 2, The Congress.

The date of enactment of the Debt Collection Improvement Act of 1996, referred to in subsec. (i)(4)(A), is the date of enactment of section 31001 of Pub. L. 104–134, which was approved Apr. 26, 1996.

AMENDMENTS

2008—Subsec. (f)(3), (4). Pub. L. 110–389 added par. (3) and redesignated former par. (3) as (4).

2006—Subsec. (f)(2). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1996—Subsec. (a). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed in introductory provisions by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 104–316, § 115(g)(1)(A), inserted '', except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official'' before ''; and'' at end.

Subsec. (b). Pub. L. 104–316, § 115(g)(1)(B), (C), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.''

Subsec. (c). Pub. L. 104–316, § 115(g)(1)(C), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 104–316, § 115(g)(1)(C), (D), redesignated subsec. (e) as (d) and in par. (2) struck out ''and the Comptroller General'' before ''may prescribe'' and ''jointly'' after ''prescribe''. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104–316, § 115(g)(1)(C), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed in introductory provisions by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (e)(2). Pub. L. 104–134, § 31001(g)(1)(C), inserted '', the Secretary of the Treasury,'' after ''Attorney General''.

Subsec. (f). Pub. L. 104–316, § 115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(1). Pub. L. 104–134, § 31001(c)(1), (k)(1), (2), in introductory provisions substituted ''the head of an executive, judicial, or legislative agency shall'' for ''the head of an executive or legislative agency may'' and ''a person'' for ''an individual''.

Subsec. (f)(1)(C), (D), (F). Pub. L. 104–134, § 31001(k)(3), substituted ''the person'' for ''the individual'' wherever appearing.

Subsec. (f)(2). Pub. L. 104–134, § 31001(c)(1), (k)(2), (3), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'', ''a person'' for ''an individual'', and ''the person'' for ''the individual''.

Subsec. (f)(3). Pub. L. 104–134, § 31001(c)(1), (k)(2), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' and ''a person'' for ''an individual''.

Subsec. (f)(4), (5). Pub. L. 104–134, § 31001(k)(4), added pars. (4) and (5).

Subsec. (g). Pub. L. 104–316, § 115(g)(1)(C), redesignated the subsec. (g), relating to authority to suspend or terminate collection actions against deceased members, as (f).

Pub. L. 104–134, § 31001(m)(1), added subsec. (g) relating to transfer of debt or claim to Secretary of the Treasury in case of delinquency.

Pub. L. 104–106 added subsec. (g) relating to authority to suspend or terminate collection actions against deceased members.

Subsec. (g)(1). Pub. L. 104–201, § 1010(1), substituted ''Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy'' for ''or Marine Corps''.

Subsec. (g)(2), (3). Pub. L. 104–201, § 1010(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (h). Pub. L. 104–134, § 31001(m)(1), added subsec. (h).

Subsec. (i). Pub. L. 104–134, § 31001(p), added subsec. (i).

1994—Subsec. (c)(2). Pub. L. 103–272 substituted ''section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters'' for ''section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 App. U.S.C. 26(h))''.

1992—Subsec. (c)(2). Pub. L. 102–365 substituted ''$500'' for ''$250''.

1990—Subsec. (a)(2). Pub. L. 101–552 substituted ''$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe'' for ''$20,000 (excluding interest)''.

1986—Subsec. (f)(1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1984—Subsec. (c)(2). Pub. L. 98–216 substituted ''(49 App. U.S.C. 26(h))'' for ''(49 U.S.C. 26(h))''.

1983—Subsec. (f). Pub. L. 97–452 added subsec. (f).

SAVINGS PROVISION

Section 31001(n) of Pub. L. 104–134 provided that: ''Effective October 1, 1995, section 11 of the Administrative Dispute Resolution Act (Public Law 101–552, [former] 5 U.S.C. 571 note) shall not apply to the amendment made by section 8(b) of such Act [amending this section].''

GUIDELINES

Section 31001(aa)(1) of Pub. L. 104–134 provided that: ''The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.''

REPORT

Section 31001(aa)(2) of Pub. L. 104–134 provided that: ''Not later than 3 years after the date of enactment of this Act [Apr. 26, 1996], the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by subsection (m) of this section.''

STANDARDS AND POLICIES FOR COMPROMISING, WRITING-DOWN, FORGIVING, OR DISCHARGING INDEBTEDNESS

Section 31001(bb) of Pub. L. 104–134 provided that: ''The Director of the Office of Management and Budget shall—

''(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

''(2) determine whether those standards and policies are consistent and protect the interests of the United States;

''(3) in the case of any Federal agency standard or policy that the Director determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

''(4) report annually to the Congress on—

''(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

''(B) progress made in improving those standards and policies.''

EXISTING AGENCY AUTHORITY TO LITIGATE, SETTLE, COMPROMISE, OR CLOSE CLAIMS

Pub. L. 89–508, § 4, July 19, 1966, 80 Stat. 309, provided that: ''Nothing in this Act [now this section] shall increase or diminish the existing authority of the head of an agency to litigate claims, or diminish his existing authority to settle, compromise, or close claims.''

§ 3712. Time limitations for presenting certain claims of the Government

(a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.—

(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

(A) the end of the 1-year period beginning on the date of payment; or

(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702.

(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an endorser, transferor, depositary, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

(e) TREASURY CHECK OFFSET.—

(1) IN GENERAL.—To facilitate collection of amounts owed by presenting banks pursuant to subsection (a) or (b), upon the direction of the Secretary, a Federal reserve bank shall withhold credit from banks presenting Treasury checks for ultimate charge to the account of the United States Treasury. By presenting Treasury checks for payment a presenting bank is deemed to authorize this offset.

(2) ATTEMPT TO COLLECT REQUIRED.—Prior to directing offset under subsection (a)(1), the Secretary shall first attempt to collect amounts owed in the manner provided by sections 3711 and 3716.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 971; Pub. L. 100–86, title X, § 1004(a), Aug. 10, 1987, 101 Stat. 659; Pub. L. 104–134, title III, § 31001(d)(4), Apr. 26, 1996, 110 Stat. 1321–362.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3712(a)	31:129.	Mar. 6, 1946, ch. 48, § 1, 60 Stat. 31; Aug. 28, 1957, Pub. L. 85–183, § 3(b), 71 Stat. 465; Aug. 12, 1970, Pub. L. 91–375, § 6(*l*)(2), 84 Stat. 782.
3712(b)	31:131.	Mar. 6, 1946, ch. 48, §§ 2, 3, 60 Stat. 31.
3712(c)	31:130.	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3712(d)	31:237a.	Aug. 28, 1954, ch. 1035, 68 Stat. 890.

In the section, the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (a), the words ''civil action'' are substituted for ''proceeding in any court'', ''court proceeding'', and ''proceeding'', and the word ''fiscal'' is substituted for ''financial'', for consistency in the revised title and with other titles of the United States Code. The words ''Except as provided in this subsection'' are added for clarity. The words ''or by an agency or official of the United States'' are omitted as surplus. The words ''the Postmaster General'' are omitted because of section 4(a) of the Postal Reorganization Act (Pub. L. 91–375, 84 Stat. 773). The words ''the Treasurer and Assistant Treasurers of the United States'' are omitted because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The word ''official'' is substituted for ''officers'' for consistency in the revised title and with other titles of the Code. The words ''of the United States'', ''to the Treasurer of the United States or other drawee'', and ''of such check, checks, warrant, or warrants'' are omitted as surplus. The text of 31:129(last sentence less proviso) is omitted as unnecessary. The last sentence is substituted for 31:129(last sentence proviso) to eliminate unnecessary words.

In subsection (b), the words ''at any time'' in 31:131 are omitted as surplus. The words ''the claim is discovered'' are substituted for ''the United States or any agency or official of the United States who is entitled to bring the same shall discover that the United States or any agency or official of the United States had such cause of action'' to eliminate unnecessary words. The words ''who is liable to any of the actions mentioned in sections 129 to 131 of this title'' are omitted as surplus. The words ''officer or employee of the Government'' are substituted for ''United States or any agency or official of the United States'' before ''entitled'' for consistency in the revised title and with other titles of the Code. The words ''although such action would be otherwise barred by the provisions of sections 129 to 131 of this title'' are omitted as surplus.

In subsection (c), the words ''of the United States'' and ''allow . . . in'' are omitted as surplus. The word ''appropriate'' is added for clarity. The word ''Treasury'' is substituted for ''Treasurer of the United States'' before ''for the amount'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words ''cannot be brought because notice was not given within the time required under this subsection'' are substituted for ''shall have been barred pursuant to the provisions of sections 129 to 131 of this title upon a showing that the barring of such proceedings . . . required by the provision of section 129 of this title'' for clarity. The word ''Secretary'' is substituted for ''Treasurer of the United States'' before ''in failing'' because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974.

In subsection (d), the words ''arising from dual pay'' are substituted for ''arising out of the receipt by such person of compensation . . . in violation of any provision of law prohibiting or restricting the receipt of dual compensation'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code. The words ''including Government owned or controlled corporations'' are omitted as unnecessary. The words ''or from the government of the District of Columbia'' are omitted because of sections 102(a), 448, 449, and 761 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93–198, 87 Stat. 777, 801, 836).

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–134 added subsec. (e).

1987—Subsec. (a). Pub. L. 100–86 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Except as provided in this subsection, the United States Government must bring a civil action to enforce the liability of an endorser, transferor, depositary, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or a disbursing official or agent within 6 years after the check or warrant is presented to the drawee of the check or warrant for payment unless, within that period, written notice of the claim is given to the endorser, transferor, depositary, or fiscal agent. The period for bringing a civil action or giving notice is extended for 180 days if a claim is received under section 3702(c) of this title.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–86 effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100–86, set out as a note under section 3328 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement amendment by section 1004(a) of Pub. L. 100–86, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100–86, set out as a note under section 3328 of this title.

§ 3713. Priority of Government claims

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

(ii) property of the debtor, if absent, is attached; or

(iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3713(a)	31:191.	R.S. § 3466; Nov. 6, 1978, Pub. L. 95–598, § 322(a), 92 Stat. 2678.
3713(b)	31:192.	R.S. § 3467; restated May 10, 1934, ch. 277, § 518(a), 48 Stat. 760; Nov. 6, 1978, Pub. L. 95–598, § 322(b), 92 Stat. 2679.

In the section, the word ''claim'' is substituted for ''debts'' for consistency. The word ''due'' is omitted as unnecessary.

In subsection (a)(1), before clause (A), the word ''paid'' is substituted for ''satisfied'' for consistency. In clause (A)(i), the words ''and the priority established shall extend as well to cases in which'' are omitted because of the restatement. In clause (A)(ii), the word ''property'' is substituted for ''estate and effects'' to eliminate unnecessary words. The words ''absconding, concealed, or'' and ''by process of law'' are omitted as surplus.

In subsection (a)(2), the words ''The priority established under . . . however'' are omitted as surplus.

In subsection (b), the words ''A representative of a person or an estate'' are substituted for ''executor, administrator, or assignee, or other'' for clarity and to eliminate unnecessary words. The words ''for whom or for which he acts'', ''satisfies and'', and ''from such person or estate'' are omitted as surplus. The word ''liable'' is substituted for ''answerable in his own person and estate'' for consistency.

§ 3714. Keeping money due States in default

The Secretary of the Treasury shall keep the necessary amount of money the United States Government owes a State when the State defaults in paying principal or interest on investments in stocks or bonds the State issues or guarantees and that the Government holds in trust. The money shall be used to pay the principal or interest or reimburse, with interest, money the Government advanced for interest due on the stocks or bonds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3714	31:207.	R.S. § 3481.

The word ''amount'' is substituted for ''whole, or so much thereof'' for clarity. The word ''owes'' is substituted for ''due on any account from the . . . to'' to eliminate unnecessary words. The words ''or either'' and ''thereon'' are omitted as surplus.

§ 3715. Buying real property of a debtor

The head of an agency for whom a civil action is brought against a debtor of the United States Government may buy real property of the debtor at a sale on execution of the real property of the debtor resulting from the action. The head of the agency may not bid more for the property than the amount of the judgment for which the property is being sold, and costs. The marshal of the district in which the sale is held shall transfer the property to the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 972.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3715	31:195.	R.S. § 3470; June 2, 1965, Pub. L. 89–30, § 5, 79 Stat. 119.

The words ''by such agent as . . . shall appoint'' are omitted as unnecessary. The word ''agency'' is substituted for ''department or independent agency'' because of the restatement. The words ''for whom a civil action is brought'' are substituted for ''at whose instance suit was instituted'' for consistency. The words ''real property'' are substituted for ''lands or tenements'' for clarity and consistency. The words ''in behalf of the United States'' are omitted as surplus. The words ''for the property'' are added for clarity. The word ''property'' is substituted for ''such estate'' for consistency in the section. The words ''Whenever such

purchase is made'' are omitted as surplus. The words ''transfer the property'' are substituted for ''make all needful conveyances, assignments, or transfers'' to eliminate unnecessary words and for clarity.

§ 3716. Administrative offset

(a) After trying to collect a claim from a person under section 3711(a) of this title, the head of an executive, judicial, or legislative agency may collect the claim by administrative offset. The head of the agency may collect by administrative offset only after giving the debtor—

(1) written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor under this section;

(2) an opportunity to inspect and copy the records of the agency related to the claim;

(3) an opportunity for a review within the agency of the decision of the agency related to the claim; and

(4) an opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the Government Accountability Office, or the Department of the Treasury; or

(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).

(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, the Department of Health and Human Services, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

(2) Neither the disbursing official nor the payment certifying agency shall be liable—

(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or

(B) for failure to provide timely notice under paragraph (8).

(3)(A)(i) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), except as provided in clause (ii), all payments due to an individual under—

(I) the Social Security Act,

(II) part B of the Black Lung Benefits Act, or

(III) any law administered by the Railroad Retirement Board (other than payments that such Board determines to be tier 2 benefits),

shall be subject to offset under this section.

(ii) An amount of $9,000 which a debtor may receive under Federal benefit programs cited under clause (i) within a 12-month period shall be exempt from offset under this subsection. In applying the $9,000 exemption, the disbursing official shall—

(I) reduce the $9,000 exemption amount for the 12-month period by the amount of all Federal benefit payments made during such 12-month period which are not subject to offset under this subsection; and

(II) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

(B) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

(C) The provisions of sections 205(b)(1), 809(a)(1), and 1631(c)(1) of the Social Security Act shall not apply to any administrative offset executed pursuant to this section against benefits authorized by title II, VIII, or title XVI of the Social Security Act, respectively.

(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.

(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be col-

lected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

(5) The Secretary of the Treasury in consultation with the Commissioner of Social Security and the Director of the Office of Management and Budget, may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

(6) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

(7)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

(i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

(ii) the identity of the creditor agency requesting the offset; and

(iii) a contact point within the creditor agency that will handle concerns regarding the offset.

(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

(8) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.

(e)(1) Notwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.

(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.

(f) The Secretary may waive the requirements of sections 552a(*o*) and (p) of title 5 for administrative offset or claims collection upon written certification by the head of a State or an executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.

(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

(A) the appropriate State disbursing official requests that an offset be performed; and

(B) a reciprocal agreement with the State is in effect which contains, at a minimum—

(i) requirements substantially equivalent to subsection (b) of this section; and

(ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

(2) This subsection does not apply to—

(A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;

(B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or

(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.

(3) In applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.

(Added Pub. L. 97–452, § 1(16)(A), Jan. 12, 1983, 96 Stat. 2471; amended Pub. L. 104–134, title III, § 31001(c)(1), (d)(2), (e), (f), Apr. 26, 1996, 110 Stat. 1321–359, 1321–362; Pub. L. 106–169, title II, § 251(b)(10), Dec. 14, 1999, 113 Stat. 1856; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–234, title XIV, § 14219(a), May 22, 2008, 122 Stat. 1482; Pub. L. 110–246, § 4(a), title XIV, § 14219(a), June 18, 2008, 122 Stat. 1664, 2244; Pub. L. 110–275, title I, § 189(b), July 15, 2008, 122 Stat. 2590.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3716(a)	31 App.:954(a) (words before last comma), (c).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, § 5(a)–(d); added Oct. 25, 1982, Pub. L. 97–365, § 10(2), 96 Stat. 1754.
3716(b)	31 App.:954(b).	
3716(c)(1)	31 App.:954(a) (words after last comma).	
3716(c)(2)	31 App.:954(d).	

In the subchapter, the words ''or his designee'' are omitted as unnecessary.

In subsection (a)(1), the words ''head of the'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the word ''Government'' is added for consistency in the revised title and with other titles of the Code.

In subsection (b)(3), the word ''civil'' is added for consistency in the revised title and with other titles of the Code.

In subsection (c)(2), the word ''either'' is omitted as surplus.

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c)(1)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education, and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (c)(3)(A)(i)(I), (C), (D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Titles II, VIII, XVI, and XVIII of the Act are classified generally to subchapters II (§ 401 et seq.), VIII (§ 1001 et seq.), XVI (§ 1381 et seq.), and XVIII (§ 1395 et seq.), respectively, of chapter 7 of Title 42. Sections 205(b)(1), 809(a)(1), and 1631(c)(1) of the Act are classified to sections 405(b)(1), 1009(a)(1), and 1383(c)(1), respectively, of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Black Lung Benefits Act, referred to in subsec. (c)(3)(A)(i)(II), is title IV of Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 792, as amended. Part B of the Act is classified generally to part B (§ 921 et seq.) of subchapter IV of chapter 22 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see section 901(b) of Title 30 and Tables.

The enactment of this subparagraph, referred to in subsec. (c)(3)(D), refers to the date of enactment of Pub. L. 110–275, which was approved July 15, 2008.

The Internal Revenue Code of 1986, referred to in subsec. (c)(8), is classified to Title 26, Internal Revenue Code.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (c)(1)(A). Pub. L. 110–275, § 189(b)(1), inserted ''the Department of Health and Human Services,'' after ''United States Postal Service,''.

Subsec. (c)(3)(D). Pub. L. 110–275, § 189(b)(2), added subpar. (D).

Subsec. (e). Pub. L. 110–246, § 14219(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''This section does not apply—

''(1) to a claim under this subchapter that has been outstanding for more than 10 years; or

''(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.''

2004—Subsec. (b)(1). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1999—Subsec. (c)(3)(C). Pub. L. 106–169 substituted ''sections 205(b)(1), 809(a)(1),'' for ''sections 205(b)(1)'' and ''title II, VIII,'' for ''either title II''.

1996—Subsec. (a). Pub. L. 104–134, § 31001(c)(1), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' in introductory provisions.

Subsec. (b). Pub. L. 104–134, § 31001(d)(2)(A), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Before collecting a claim by administrative offset under subsection (a) of this section, the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on—

''(1) the best interests of the United States Government;

''(2) the likelihood of collecting a claim by administrative offset; and

''(3) for collecting a claim by administrative offset after the 6-year period for bringing a civil action on a claim under section 2415 of title 28 has expired, the cost effectiveness of leaving a claim unresolved for more than 6 years.''

Pub. L. 104–134, § 31001(c)(1), substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' in introductory provisions.

Subsec. (c). Pub. L. 104–134, § 31001(d)(2)(D), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (c)(2). Pub. L. 104–134, § 31001(d)(2)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''when a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.''

Subsec. (d). Pub. L. 104–134, § 31001(d)(2)(D), added subsec. (d).

Subsec. (e). Pub. L. 104–134, § 31001(d)(2)(C), redesignated subsec. (c) as (e).

Subsecs. (f) to (h). Pub. L. 104–134, § 31001(e), (f), added subsecs. (f) to (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–275, title I, § 189(c), July 15, 2008, 122 Stat. 2591, provided that: ''The amendments made by this section [amending this section and section 1395kk of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [July 15, 2008].''

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title XIV, § 14219(b), May 22, 2008, 122 Stat. 1483, and Pub. L. 110–246, § 4(a), title XIV, § 14219(b), June 18, 2008, 122 Stat. 1664, 2245, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to any debt outstanding on or after the date of the enactment of this Act [June 18, 2008].''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

OFFSETS FROM SOCIAL SECURITY PAYMENTS

Section 31001(a)(2)(B) of Pub. L. 104–134 provided that: ''Subparagraph (A) of section 3716(c)(3) of title 31, United States Code (as added by subsection (d)(2) of this section), shall apply only to payments made after the date which is 4 months after the date of the enactment of this Act [Apr. 26, 1996].''

EX. ORD. NO. 13019. SUPPORTING FAMILIES: COLLECTING DELINQUENT CHILD SUPPORT OBLIGATIONS

Ex. Ord. No. 13019, Sept. 28, 1996, 61 F.R. 51763, provided that:

The Debt Collection Improvement Act of 1996, Public Law 104–134 [§ 31001] (110 Stat. 1321–358 *et seq.*) [see Short Title of 1996 Amendment note set out under section 3701 of this title], was enacted into law on April 26, 1996, as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. While the primary purpose of the Debt Collection Improvement Act is to increase the collection of nontax debts owed to the Federal Government, the Act also contains important provisions that can be used to assist families in collecting past-due child support obligations.

The failure of some parents to meet their child support obligations threatens the health, education, and well-being of their children. Compounding this problem, States have experienced difficulties enforcing

child support obligations once a parent has moved to another State. With this Executive order, my Administration takes additional steps to support our children and strengthen American families by facilitating the collection of delinquent child support obligations from persons who may be entitled or eligible to receive certain Federal payments or Federal assistance.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Administrative Offsets.* (a)(1) The Secretary of the Treasury (''the Secretary''), in accordance with the provisions of the Debt Collection Improvement Act of 1996 and to the extent permitted by law, and in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly develop and implement procedures necessary for the Secretary to collect past-due child support debts by administrative offset, and shall issue such rules, regulations, and procedures as the Secretary, in consultation with the heads of affected agencies, deems appropriate to govern administrative offsets by the Department of the Treasury and other executive departments and agencies that disburse Federal payments.

(2) The Secretary may enter into reciprocal agreements with States concerning the collection by the Secretary of delinquent child support debts through administrative offsets.

(b) The Secretary of Health and Human Services shall, within 120 days of the date of this order, implement procedures necessary to report to the Secretary of the Treasury information on past-due child support claims referred by States (including claims enforced by States pursuant to cooperative agreements with or by Indian tribal governments) to the Department of Health and Human Services.

(c) The head of each executive department and agency that certifies payments to the Secretary or to another disbursing official shall review each class of payments that the department or agency certifies to determine if any such class should be exempt from offset and, if any class is so identified, submit to the Secretary a request for such an exemption together with the reasons therefor. With respect to classes of payments under means-tested programs existing on the date of this order, such submission shall be made within 30 days of the date of this order. With respect to classes of payments other than payments under means-tested programs existing on the date of this order, such submissions shall be made within 30 days of the date the Secretary establishes standards pursuant to section 3716(c)(3) of title 31, United States Code. With respect to a class of payments established after the date of this order, such submissions shall be made not later than 30 days after such class is established.

(d) The head of each executive department and agency that certifies payments to the Secretary shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section.

(e) The head of each executive department and agency that is authorized by law to disburse payments shall promptly implement any rule, regulation, or procedure issued by the Secretary pursuant to this section and shall:

(1) match, consistent with computer privacy matching laws, the payment certification records of such department or agency with records of persons delinquent in child support payments as directed by the Secretary; and

(2) conduct administrative offsets to collect delinquent child support payments.

(f) The Secretary shall, to the extent permitted by law, share with the Secretary of Health and Human Services any information contained in payment certification records of persons who are delinquent in child support obligations that would assist in the collection of such debts, whether or not an administrative offset is conducted.

SEC. 2. *Denial of Federal Assistance.* (a) The Secretary shall, to the extent permitted by law, ensure that information concerning individuals whose payments are subject to administrative offset because of delinquent child support obligations is made available to the head of each executive department and agency that provides Federal financial assistance to individuals.

(b) In conformance with section 2(e) of this order, the head of each executive department and agency shall, with respect to any individuals whose payments are subject to administrative offset because of a delinquent child support obligation, promptly implement procedures to deny Federal financial assistance to such individuals.

(c) The Attorney General, in consultation with the Secretary of Health and Human Services and other affected agencies, shall promptly issue guidelines for departments and agencies concerning minimum due-process standards to be included in the procedures required by subsection (b) of this section.

(d) For purposes of this section, Federal financial assistance means any Federal loan (other than a disaster loan), loan guarantee, or loan insurance.

(e)(1) A class of Federal financial assistance shall not be subject to denial if the head of the concerned department or agency determines:

(A) in consultation with the Attorney General and the Secretary of Health and Human Services, that such action:

(i) is not permitted by law; or

(ii) would likely result in valid legal claims for damages against the United States;

(B) that such action would be inconsistent with the best interests of the child or children with respect to whom a child support obligation is owed; or

(C) that such action should be waived.

(2) The head of each executive department and agency shall provide written notification to the Secretary upon determining that the denial of a class of Federal financial assistance is not permitted by law or should be waived.

(f) The head of each executive department and agency shall:

(1) review all laws under the jurisdiction of the department or agency that do not permit the denial of Federal financial assistance to individuals and whose payments are subject to administrative offset because of a delinquent child support obligation and, where appropriate, transmit to the Director of the Office of Management and Budget recommendations for statutory changes; and

(2) to the extent practicable, review all rules, regulations, and procedures implementing laws under the jurisdiction of the department or agency governing the provision of any Federal financial assistance to individuals and, where appropriate, conform such rules, regulations, and procedures to the provisions of this order and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

SEC. 3. *Reports.* (a) The head of each executive department and agency shall provide to the Secretary such information as the Secretary may request concerning the implementation of this order, the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations, and the rules, regulations, and procedures issued by the Secretary pursuant to section 1 of this order.

(b) The Secretary shall report annually to the President concerning the implementation by departments and agencies of this order and the provisions of the Debt Collection Improvement Act of 1996 applicable to delinquent child support obligations.

SEC. 4. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 3717. Interest and penalty on claims

(a)(1) The head of an executive, judicial, or legislative agency shall charge a minimum an-

nual rate of interest on an outstanding debt on a United States Government claim owed by a person that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point. The Secretary of the Treasury shall publish the rate before November 1 of that year. The rate is effective on the first day of the next calendar quarter.

(2) The Secretary may change the rate of interest for a calendar quarter if the average investment rate for the 12-month period ending at the close of the prior calendar quarter, rounded to the nearest whole percentage point, is more or less than the existing published rate by 2 percentage points.

(b) Interest under subsection (a) of this section accrues from the date—

(1) on which notice is mailed after October 25, 1982, if notice was first mailed before October 25, 1982; or

(2) notice of the amount due is first mailed to the debtor at the most current address of the debtor available to the head of the executive or[1] legislative agency, if notice is first mailed after October 24, 1982.

(c) The rate of interest charged under subsection (a) of this section—

(1) is the rate in effect on the date from which interest begins to accrue under subsection (b) of this section; and

(2) remains fixed at that rate for the duration of the indebtedness.

(d) Interest under subsection (a) of this section may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues under subsection (b) of this section. The head of an executive, judicial, or legislative agency may extend the 30-day period.

(e) The head of an executive, judicial, or legislative agency shall assess on a claim owed by a person—

(1) a charge to cover the cost of processing and handling a delinquent claim; and

(2) a penalty charge of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due.

(f) Interest under subsection (a) of this section does not accrue on a charge assessed under subsection (e) of this section.

(g) This section does not apply—

(1) if a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest or charges; and

(2) to a claim under a contract executed before October 25, 1982, that is in effect on October 25, 1982.

(h) In conformity with standards prescribed jointly by the Attorney General, the Secretary of the Treasury, and the Comptroller General, the head of an executive, judicial, or legislative agency may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subsections (a) and (e) of this section. A waiver under the regulations is deemed to be compliance with this section.

(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

(2) For the purpose of this subsection—

(A) the term ''cost of living adjustment'' means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

(B) the term ''administrative claim'' includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.

(Added Pub L. 97–452, § 1(16)(A), Jan. 12, 1983, 96 Stat. 2472; amended Pub. L. 104–134, title III, § 31001(c)(1), (g)(1)(C), (q), Apr. 26, 1996, 110 Stat. 1321–359, 1321–363, 1321–372.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3717(a)	31 App.:952(e)(1) (1st–3d sentences).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, § 3(e)(1) (1st–3d sentences), (2)–(7); added Oct. 25, 1982, Pub. L. 97–365, § 11, 96 Stat. 1755.
3717(b), (c).	31 App.:952(e)(5).	
3717(d)	31 App.:952(e)(6).	
3717(e)	31 App.:952(e)(2).	
3717(f)	31 App.:952(e)(7).	
3717(g)(1)	31 App.:952(e)(3) (1st sentence).	
3717(g)(2)	31 App.:952(e)(4).	
3717(h)	31 App.:952(e)(3) (2d, last sentences).	

In subsection (a), the words ''percentage point'' and ''percentage points'' are substituted for ''per centum'' for clarity.

In subsections (a)(1) and (e), the words ''Except as provided in paragraph (3)'' are omitted as surplus.

In subsection (a)(2), the words ''for a calendar quarter'' are substituted for ''quarterly'', and the words ''prior calendar quarter'' are substituted for ''that calendar quarter'', for clarity.

In subsection (b), before clause (1), the words ''Subject to paragraph (6)'' and ''except as provided in subparagraph (B)'' are omitted as surplus. In clause (2), the words ''on the claim'' are omitted as surplus. The words ''if notice is first mailed after October 24, 1982'' are added for clarity.

In subsection (c), the words ''on a claim'' are omitted as surplus.

In subsection (g)(1), the words ''applicable'' and ''either'' are omitted as surplus. The word ''assessing'' is added for clarity. The words ''that apply to claims involved'' are omitted as surplus.

In subsection (h), the words ''under this section'' are added for clarity.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

[1] So in original. Probably should be '', judicial, or''.

Subsecs. (d), (e). Pub. L. 104–134, § 31001(c)(1), which directed that this section be amended by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 104–134, § 31001(c)(1), (g)(1)(C), inserted '', the Secretary of the Treasury,'' after ''Attorney General'' and substituted ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency''.

Subsec. (i). Pub. L. 104–134, § 31001(q), added subsec. (i).

§ 3718. Contracts for collection services

(a) Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets. The contract shall provide that—

(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

(2) the person is subject to—

(A) section 552a of title 5, to the extent provided in section 552a(m); and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

(b)(1)(A) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in the case of any claim of indebtedness owed the United States. Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services in the collection of claims of indebtedness, as determined by the Attorney General, considering the amount, age, and nature of the indebtedness and whether the debtor is an individual or a business entity. Nothing in this subparagraph shall relieve the Attorney General of the competition requirements set forth in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following).

(B) The Attorney General shall use his best efforts to enter into contracts under this paragraph with law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act), so as to enable each agency to comply with paragraph (3).

(2) The head of an executive, judicial, or legislative agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection claims of indebtedness owed the United States arising out of activities of that agency.

(3) Each agency shall use its best efforts to assure that not less than 10 percent of the amounts of all claims referred to private counsel by that agency under paragraph (2) are referred to law firms owned and controlled by socially and economically disadvantaged individuals and law firms that are qualified HUBZone small business concerns. For purposes of this paragraph—

(A) the term ''law firm owned and controlled by socially and economically disadvantaged individuals'' means a law firm that meets the requirements set forth in clauses (i) and (ii) of section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)(i) and (ii)) and regulations issued under those clauses;

(B) ''socially and economically disadvantaged individuals'' shall be presumed to include these[1] groups and individuals described in the last paragraph of section 8(d)(3)(C) of the Small Business Act; and

(C) the term ''qualified HUBZone small business concern'' has the meaning given that term in section 3(p) of the Small Business Act.

(4) Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

(5) A contract made with a private counsel under paragraph (1) of this subsection shall include—

(A) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government;

(B) a provision stating that the head of the executive or[2] legislative agency which refers a claim under the contract retains the authority to resolve a dispute regarding the claim, to compromise the claim, or to terminate a collection action on the claim; and

(C) a provision requiring the private counsel to transmit monthly to the Attorney General and the head of the executive or[1] legislative agency referring a claim under the contract a report on the services relating to the claim rendered under the contract during the month and the progress made during the month in collecting the claim under the contract.

(6) Notwithstanding the fourth sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)), a private counsel

[1] So in original. Probably should be ''the''.

[2] So in original. Probably should be '', judicial, or''.

performing legal services pursuant to a contract made under paragraph (1) of this subsection shall be considered to be a debt collector for the purposes of such Act.

(7) Any counterclaim filed in any action to recover indebtedness owed the United States which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought. Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

(c) The Attorney General shall transmit to the Congress an annual report on the activities of the Department of Justice to recover indebtedness owed the United States which was referred to the Department of Justice for collection. Each such report shall include a list, by agency, of—

(1) the total number and amounts of claims which were referred for legal services to the Department of Justice and to private counsel under subsection (b) during the 1-year period covered by the report;

(2) the total number and amount of those claims referred for legal services to the Department of Justice which were collected or were not collected or otherwise resolved during the 1-year period covered by the report; and

(3) the total number and amount of those claims referred for legal services to private counsel under subsection (b)—

(A) which were collected or were not collected or otherwise resolved during the 1-year period covered by the report;

(B) which were not collected or otherwise resolved under a contract terminated by the Attorney General during the 1-year period covered by the report; and

(C) on which the Attorney General terminated the private counsel's representation during the 1-year period covered by the report without terminating the contract with the private counsel under which the claims were referred.

(d) Notwithstanding section 3302(b) of this title, a contract under subsection (a) or (b) of this section may provide that a fee a person charges to recover indebtedness owed, or to locate or recover assets of, the United States Government is payable from the amount recovered.

(e) A contract under subsection (a) or (b) of this section is effective only to the extent and in the amount provided in an appropriation law. This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (d) of this section.

(f) This section does not apply to the collection of debts under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the Government Accountability Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.

(Added Pub. L. 97–452, § 1(16)(A), Jan. 12, 1983, 96 Stat. 2473; amended Pub. L. 98–167, Nov. 29, 1983, 97 Stat. 1104; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–578, § 1, Oct. 28, 1986, 100 Stat. 3305; Pub. L. 102–589, § 6, Nov. 10, 1992, 106 Stat. 5135; Pub. L. 103–272, § 4(f)(1)(M), July 5, 1994, 108 Stat. 1362; Pub. L. 104–134, title III, § 31001(c)(1), (*l*), (cc)(1), Apr. 26, 1996, 110 Stat. 1321–359, 1321–366, 1321–380; Pub. L. 105–135, title VI, § 604(e)(1), Dec. 2, 1997, 111 Stat. 2633; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3718(a)	31 App.:952(f)(1) (1st sentence words after 2d comma, last sentence).	July 19, 1966, Pub. L. 89–508, 80 Stat. 308, § 3(f); added Oct. 25, 1982, Pub. L. 97–365, § 13(b), 96 Stat. 1757.
3718(b)	31 App.:952(f)(2).	
3718(c)	31 App.:952(f)(3).	
3718(d)	31 App.:952(f)(1) (1st sentence words before 2d comma).	

In subsections (a) and (b), the word ''Government'' is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words ''terms and'' are omitted as surplus. The words ''or organization'' are omitted because of 1:1. In clause (1), the words ''bring a civil action'' are substituted for ''initiate legal action'' for consistency in the revised title and with other titles of the Code. In clause (2)(B), the words ''including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.)'' are omitted as being included in ''laws and regulations of the United States Government''.

In subsection (b), the words ''the head of an agency'' are omitted as surplus.

In subsection (c), the word ''advanced'' is omitted as surplus.

In subsection (d), the words ''Notwithstanding the provisions of any other law governing the collection of claims owed the United States'' and ''unpaid or underpaid'' are omitted as surplus.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b)(1)(A), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

Section 3(p) of the Small Business Act, referred to in subsec. (b)(1)(B), (3)(C), is classified to section 632(p) of Title 15, Commerce and Trade.

The Fair Debt Collection Practices Act, referred to in subsec. (b)(6), is title VIII of Pub. L. 90–321, as added by Pub. L. 95–109 Sept. 20, 1977, 91 Stat. 874, as amended, which is classified generally to subchapter V (§ 1692 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2004—Subsec. (g). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1997—Subsec. (b)(1)(B). Pub. L. 105–135, § 604(e)(1)(A), inserted ''and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individuals''.

Subsec. (b)(3). Pub. L. 105–135, §604(e)(1)(B)(i), inserted ''and law firms that are qualified HUBZone small business concerns'' after ''economically disadvantaged individuals'' in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 105–135, §604(e)(1)(B)(ii)–(iv), added subpar. (C).

1996—Subsec. (a). Pub. L. 104–134, §31001(*l*)(1), in introductory provisions substituted ''Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets.'' for ''Under conditions the head of an executive or legislative agency considers appropriate, the head of the agency may make a contract with a person for collection services to recover indebtedness owed the United States Government.''

Subsec. (b)(1)(A). Pub. L. 104–134, §31001(cc)(1), struck out ''If the Attorney General makes a contract for legal services to be furnished in any judicial district of the United States under the first sentence of this paragraph, the Attorney General shall use his best efforts to obtain, from among attorneys regularly engaged in the private practice of law in such district, at least four such contracts for legal services with private individuals or firms in such district.'' before ''Nothing in this subparagraph shall''.

Subsec. (b)(2). Pub. L. 104–134, §31001(c)(1), which directed the amendment of this section by substituting ''the head of an executive, judicial, or legislative agency'' for ''the head of an executive or legislative agency'' wherever appearing, was executed by substituting ''The head of an executive, judicial, or legislative agency'' for ''The head of an executive or legislative agency'', to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 104–134, §31001(*l*)(2), inserted '', or to locate or recover assets of,'' after ''owed''.

1994—Subsec. (b)(3)(A). Pub. L. 103–272 substituted ''15 U.S.C. 637(d)(3)(C)(i)'' for ''15 U.S.C. 6376(d)(3)(C)(i)''.

1992—Subsec. (g). Pub. L. 102–589 added subsec. (g).

1986—Subsecs. (b), (c). Pub. L. 99–578, §1(1), (4), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

Subsec. (d). Pub. L. 99–578, §1(1), (2), redesignated former subsec. (b) as (d) and inserted ''or (b)'' after ''subsection (a)''. Former subsec. (d) redesignated (f).

Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (e). Pub. L. 99–578, §1(1), (3), redesignated former subsec. (c) as (e), inserted ''or (b)'' after ''(a)'', and substituted ''subsection (d)'' for ''subsection (b)''.

Subsec. (f). Pub. L. 99–578, §1(1), redesignated former subsec. (d) as (f).

1983—Subsec. (c). Pub. L. 98–167 inserted ''This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (b) of this section.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 7 of Pub. L. 102–589 provided that: ''The provisions of this Act [amending this section and section 3720A of this title, enacting provisions set out as notes under this section and section 6501 of this title, and amending provisions set out as notes under this section and sections 3335 and 6503 of this title] and amendments made by this Act shall take effect on the date of enactment of this Act [Nov. 10, 1992], except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.''

EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Section 5 of Pub. L. 99–578, as amended by Pub. L. 102–589, §4(c), Nov. 10, 1992, 106 Stat. 5134, which provided that Pub. L. 99–578 and the amendments made by section 1 of Pub. L. 99–578 (amending this section and enacting provisions set out as notes under this section) were to be in effect until Sept. 30, 1996, was repealed by Pub. L. 104–134, title III, §31001(cc)(2), Apr. 26, 1996, 110 Stat. 1321–380.

REGULATIONS

Section 4 of Pub. L. 99–578 provided that: ''The Attorney General shall issue regulations to carry out this Act and the amendments made by section 1 of this Act [amending this section and enacting provisions set out as notes under this section]. The Attorney General shall submit the regulations to the Congress at least 60 days before they become effective.''

EXTENSION OF CONTRACTS WITH PRIVATE COUNSEL

Section 4(d) of Pub. L. 102–589 provided that: ''The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.''

AUDIT BY INSPECTOR GENERAL

Section 5 of Pub. L. 102–589 provided that:

''(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled 'An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.', approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578 [set out below]). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

''(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.''

PILOT PROGRAM; EXTENSION

Section 3 of Pub. L. 99–578, as amended by Pub. L. 102–589, §4(b), Nov. 10, 1992, 106 Stat. 5134, which directed Attorney General to carry out subsections (b) and (c) of this section through a pilot program in each of at least 5 and not more than 15 judicial districts selected by the Attorney General, was repealed by Pub. L. 104–134, title III, §31001(cc)(2), Apr. 26, 1996, 110 Stat. 1321–380.

Pub. L. 104–134, title I, §101[(a)] [title I, §120], Apr. 26, 1996, 110 Stat. 1321, 1321–22; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, provided that the pilot debt collection project authorized by Public Law 99–578 (formerly set out above) was extended through September 30, 1997.

Prior extensions of the pilot program for legal services were contained in the following acts:

Pub. L. 102–589, § 4(a), Nov. 10, 1992, 106 Stat. 5134.
Pub. L. 102–395, title I, Oct. 6, 1992, 106 Stat. 1832.
Pub. L. 101–302, title II, May 25, 1990, 104 Stat. 216.

REPORT BY ATTORNEY GENERAL

Section 2 of Pub. L. 99–578 directed Attorney General, not later than 180 days after Oct. 28, 1986, to transmit to Congress a report on actions taken under subsec. (b) of this section, as added by Pub. L. 99–578.

AUDIT BY COMPTROLLER GENERAL

Section 6 of Pub. L. 99–578 provided that:

''(a) CONTENTS OF AUDIT.—The Comptroller General of the United States shall, at the end of the 3-year period referred to in section 5 [set out above], conduct an audit of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code (as added by section 1 of this Act), under the pilot program referred to in section 3 [set out above]. The Comptroller General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, and the results of the debt collection efforts of private counsel retained under such contracts.

''(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Comptroller General shall transmit to the Congress a report on the findings and conclusions resulting from the audit.''

§ 3719. Reports on debt collection activities

(a) In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency. The report shall contain—

(1) information on—

(A) the total amount of loans and accounts receivable owed the agency and when amounts owed the agency are due to be repaid;

(B) the total amount of receivables and number of claims at least 30 days past due;

(C) the total amount written off as actually uncollectible and the total amount allowed for uncollectible loans and accounts receivable;

(D) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(E) the total number of claims and the total amount collected; and

(F) the number and total amount of claims referred to the Attorney General for settlement and the number and total amount of claims the Attorney General settles;

(2) the information described in clause (1) of this subsection for each program or activity the head of the agency carries out; and

(3) other information the Secretary considers necessary to decide whether the head of the agency is acting aggressively to collect the claims of the agency.

(b) The Secretary shall analyze the reports submitted under subsection (a) of this section and shall report annually to Congress on the management of debt collection activities by the head of each agency, including the information provided the Secretary under subsection (a).

(Added Pub. L. 97–452, § 1(16)(A), Jan. 12, 1983, 96 Stat. 2473; amended Pub. L. 104–134, title III, § 31001(aa)(3), Apr. 26, 1996, 110 Stat. 1321–380.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3719(a)	31 App.:955(a).	Oct. 25, 1982, Pub. L. 97–365, § 12, 96 Stat. 1756.
3719(b)	31 App.:955(b).	

In subsection (a), before clause (1), the words ''of the United States'' are omitted as surplus. The words ''the head of'' are added for consistency in the revised title and with other titles of the United States Code. In clause (1)(C), the words ''uncollectible loans and accounts receivable'' are added for clarity. In clause (1)(F), the words ''Attorney General'' are substituted for ''Department of Justice'' for consistency in the revised title and with other titles of the Code, including 28:503, 509.

In subsection (b), the word ''submitted'' is substituted for ''received by each agency'' for clarity.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, § 31001(aa)(3)(A)(i), amended first sentence generally. Prior to amendment, first sentence read as follows: ''In consultation with the Secretary of the Treasury and the Comptroller General, the Director of the Office of Management and Budget shall prescribe regulations requiring the head of each agency with outstanding debts to prepare and submit to the Director and the Secretary at least once each year a report summarizing the status of loans and accounts receivable managed by the head of the agency.''

Subsec. (a)(3). Pub. L. 104–134, § 31001(aa)(3)(A)(ii), substituted ''Secretary'' for ''Director''.

Subsec. (b). Pub. L. 104–134, § 31001(aa)(3)(B), which directed that subsec. (b) be amended by substituting ''Secretary'' for ''Director'', was executed by making the substitution to both places where ''Director'' appeared.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the reporting requirement under subsec. (b) of this section is listed on page 42), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of this title.

CONSOLIDATION OF REPORTS

Section 31001(aa)(4) of Pub. L. 104–134 provided that: ''Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report.''

§ 3720. Collection of payments

(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions,

and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

(c) There is established in the Treasury of the United States a revolving fund to be known as the ''Cash Management Improvements Fund''. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.

(Added Pub. L. 98–369, div. B, title VI, § 2652(a)(1), July 18, 1984, 98 Stat. 1152.)

REGULATIONS

Section 2652(a)(3) of Pub. L. 98–369 provided that: ''The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.''

§ 3720A. Reduction of tax refund by amount of debt

(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.

(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable;

(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts (determined on a government-wide basis) to obtain payment of such debt; and

(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.

(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Commissioner of Social Security is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Commissioner of Social Security shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b). In lieu of payment, pursuant to subsection (c), to the Commissioner of Social Security of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Fed-

eral Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Commissioner of Social Security.

(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.

(h)(1)[1] The disbursing official of the Department of the Treasury—

(1)[1] shall notify a taxpayer in writing of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

(B) the identity of the creditor agency requesting the offset; and

(C) a contact point within the creditor agency that will handle concerns regarding the offset;

(2)[1] shall notify the Internal Revenue Service on a weekly basis of—

(A) the occurrence of an offset to satisfy a past-due legally enforceable non-tax[2] debt;

(B) the amount of such offset; and

(C) any other information required by regulations; and

(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.

(h)(2)[1] The term ''disbursing official'' of the Department of the Treasury means the Secretary or his designee.

(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion.

(Added Pub. L. 98–369, div. B, title VI, § 2653(a)(1), July 18, 1984, 98 Stat. 1153; amended Pub. L. 101–508, title V, § 5129(b), Nov. 5, 1990, 104 Stat. 1388–287; Pub. L. 102–589, § 3, Nov. 10, 1992, 106 Stat. 5133; Pub. L. 103–296, title I, § 108(j)(2), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 104–134, title III, § 31001(u)(1), (v)(1), (w), Apr. 26, 1996, 110 Stat. 1321–375.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Section 204 of the Act is classified to section 404 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 102–589, which was approved Nov. 10, 1992.

Section 6109 of the Internal Revenue Code of 1986, referred to in subsec. (h)(3), is classified to section 6109 of Title 26, Internal Revenue Code.

[1] So in original. Subsec. (h) contains two pars. designated (1) and (2).

[2] So in original. Probably should not be hyphenated.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134, § 31001(v)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.''

Subsec. (h). Pub. L. 104–134, § 31001(w), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''For purposes of this section—

''(1) the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

''(2) the term 'past-due support' means any delinquency subject to section 464 of the Social Security Act;

''(3) the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act; and

''(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association.''

Subsec. (i). Pub. L. 104–134, § 31001(u)(1), added subsec. (i).

1994—Subsec. (f)(2). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' wherever appearing.

1992—Subsec. (a). Pub. L. 102–589, § 3(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.''

Subsec. (b)(3) to (5). Pub. L. 102–589, § 3(2), struck out ''and'' at end of par. (3), substituted ''(determined on a government-wide basis) to obtain payment of such debt; and'' for ''to obtain payment of such debt.'' in par. (4), and added par. (5).

Subsec. (g). Pub. L. 102–589, § 3(5), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 102–589, § 3(3), (4), redesignated subsec. (g) as (h) and added par. (4).

1990—Subsec. (a). Pub. L. 101–508, § 5129(b)(1), struck out ''OASDI overpayment and'' after ''other than any''.

Subsecs. (f), (g). Pub. L. 101–508, § 5129(b)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–589 effective as if enacted on Sept. 30, 1992, see section 7 of Pub. L. 102–589, set out as a note under section 3718 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Jan. 1, 1991, and inapplicable to refunds to which amendments by section 2653 of the Deficit Reduction Act of 1984, Pub. L. 98–369, do not apply, see section 5129(d) of Pub. L. 101–508, set out as a note under section 6402 of Title 26, Internal Revenue Code.

EFFECTIVE DATE

Section applicable with respect to refunds payable under section 6402 of Title 26, Internal Revenue Code,

after Dec. 31, 1985, see section 2653(c) of Pub. L. 98–369, as amended, set out as an Effective Date of 1984 Amendment note under section 6402 of Title 26.

CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF AMENDMENTS BY SECTION 2653 OF PUB. L. 98–369

For provisions that nothing in amendments by section 2653 of Pub. L. 98–369, enacting this section, be construed as exempting debts of corporations or any other category of persons from application of such amendments, with such amendments to extend to all Federal agencies (as defined in such amendments), see section 9402(b) of Pub. L. 100–203, set out as a note under section 6402 of Title 26, Internal Revenue Code.

§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees

(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

(Added Pub. L. 104–134, title III, § 31001(j)(1), Apr. 26, 1996, 110 Stat. 1321–365; amended Pub. L. 106–387, § 1(a) [title VIII, § 845(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A–65.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsec. (a), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, as amended. Subtitle C of the Act is classified generally to subchapter III (§ 7231 et seq.) of chapter 100 of Title 7, Agriculture. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of Title 7 and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–387 inserted ''or a marketing assistance loan or loan deficiency payment under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)'' after ''disaster loan''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–387, § 1(a) [title VIII, § 845(c)], Oct. 28, 2000, 114 Stat. 1549, 1549A–65, provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] takes effect on the date of enactment of this Act [Oct. 28, 2000].

''(2) TRANSITION LOAN DEFICIENCY PAYMENTS.—If the producers on a farm lost beneficial interest in a crop during the period beginning March 21, 2000, and ending on the day before the date of enactment of this Act and were ineligible for a marketing assistance loan under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) because of section 3720B(a) of title 31, United States Code, as in effect before the amendment made by subsection (a), the producers shall be eligible for any loan deficiency payment under subtitle C of that Act that was available on the date on which the producers lost beneficial interest in the crop.''

PAYMENTS

Pub. L. 106–387, § 1(a) [title VIII, § 845(b)], Oct. 28, 2000, 114 Stat. 1549, 1549A–65, provided that: ''Any payment made by the Commodity Credit Corporation to a producer as a result of the amendment made by section (a) [amending this section] shall be credited toward any delinquent debt owed by the producer to the Farm Service Agency.''

§ 3720C. Debt Collection Improvement Account

(a)(1) There is hereby established in the Treasury a special fund to be known as the ''Debt Collection Improvement Account'' (hereinafter in this section referred to as the ''Account'').

(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

(2) Agency transfers to the Account may include collections from—

(A) salary, administrative, and tax refund offsets;

(B) the Department of Justice;

(C) private collection agencies;

(D) sales of delinquent loans; and

(E) contracts to locate or recover assets.

(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

(A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or

(B) 5 percent of the average annual amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

(2) For purposes of this section, the term ''qualified expenses'' means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

(A) account servicing (including cross-servicing under section 3711(g) of this title),

(B) automatic data processing equipment acquisitions,

(C) delinquent debt collection,

(D) measures to minimize delinquent debt,

(E) sales of delinquent debt,

(F) asset disposition, and

(G) training of personnel involved in credit and debt management.

(3)(A) Amounts transferred to the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriations Acts.

(B) As soon as practicable after the end of the third fiscal year after which amounts transferred are first available pursuant to this section, and every 3 years thereafter, any uncommitted balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 104–134, title III, § 31001(t)(1), Apr. 26, 1996, 110 Stat. 1321–373.)

REFERENCES IN TEXT

The Congressional Budget Act of 1974, referred to in subsec. (d), is titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. Title V of the Act, known as the Federal Credit Reform Act of 1990, is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

§ 3720D. Garnishment

(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

(A) the nature and amount of the debt to be collected;

(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

(C) an explanation of the rights of the individual under this section.

(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

(A) the existence or the amount of the debt, and

(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5)[1] upon request, but such hearing need not be provided prior to issuance of a garnishment order.

(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

[1] So in original. Probably should be subsection ''(b)(5)''.

(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(f)(1) The employer of an individual—

(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

(g) For the purpose of this section, the term ''disposable pay'' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

(h) The Secretary of the Treasury shall issue regulations to implement this section.

(Added Pub. L. 104–134, title III, § 31001(*o*)(1), Apr. 26, 1996, 110 Stat. 1321–369.)

§ 3720E. Dissemination of information regarding identity of delinquent debtors

(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

(2) Regulations under this subsection shall include—

(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.

(Added Pub. L. 104–134, title III, § 31001(r)(1), Apr. 26, 1996, 110 Stat. 1321–372.)

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

§ 3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss

(a) In this section—

(1) ''agency'' does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) ''head of an agency'' means—

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) ''settle'' means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b)(1) The head of an agency may settle and pay not more than $40,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed $40,000, but may not exceed $100,000. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(2) The Secretary of State may waive the settlement and payment limitation referred to in paragraph (1) for claims for damage or loss by United States Government personnel under the jurisdiction of a chief of mission in a foreign country if such claims arise in circumstances where there is in effect a departure from the country authorized or ordered under circumstances described in section 5522(a) of title 5, if the Secretary determines that there exists exceptional circumstances that warrant such a waiver.

(c) On paying a claim under this section, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against a foreign country for the damage or loss for which the Government made the payment.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if—

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However, if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency—

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and

(2) may settle and pay the claims by the survivors only in the following order:

(A) the spouse's claim.

(B) a child's claim.

(C) a parent's claim.

(D) a brother's or sister's claim.

(i) Notwithstanding a contract, the representative of a claimant may not receive more than 10 percent of a payment of a claim made under this section for services related to the claim. A person violating this subsection shall be fined not more than $1,000.

(j) The President may prescribe policies to carry out this section (except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard). Subject to those policies, the head of each agency shall prescribe regulations to carry out this section.

(k) Settlement of a claim under this section is final and conclusive.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 973; Pub. L. 97–452, §1(17), Jan. 12, 1983, 96 Stat. 2474; Pub. L. 100–565, §1, Oct. 31, 1988, 102 Stat. 2833; Pub. L. 103–236, title I, §172(a), Apr. 30, 1994, 108 Stat. 412; Pub. L. 104–106, div. A, title X, §1088(a), Feb. 10, 1996, 110 Stat. 458.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3721(a), (b).	31:240(3).	Aug. 31, 1964, Pub. L. 88–558, §§2(3), 4, 78 Stat. 767, 768.
	31:241(a)(1)(1st sentence words after 3d comma, 2d sentence words after last comma, last sentence).	Aug. 31, 1964, Pub. L. 88–558, §3(a)(1), 78 Stat. 767; restated Sept. 15, 1965, Pub. L. 89–185, §3(b), 79 Stat. 789; Oct. 18, 1974, Pub. L. 93–455, §1(a), 88 Stat. 1381.
	31:241(a)(2)(words after 1st comma).	Aug. 31, 1964, Pub. L. 88–558, §3(a)(2), (3), (b)(2)–(d), 78 Stat. 767; restated Sept. 15, 1965, Pub. L. 89–185, §3(b)–(d), 79 Stat. 789, 790.
	31:241(b)(1)(1st sentence words after 5th comma, 2d sentence words after last comma, last sentence).	Aug. 31, 1964, Pub. L. 88–558, §3(b)(1), 78 Stat. 767; Sept. 15, 1965, Pub. L. 89–185, §3(b), 79 Stat. 790; July 13, 1972, Pub. L. 92–352, §106(a), 86 Stat. 491; restated Oct. 18, 1974, Pub. L. 93–455, §1(b), 88 Stat. 1381.
	31:243a(d)(2d sentence related to payment).	Aug. 31, 1964, Pub. L. 88–558, 78 Stat. 767, §9; added Dec. 12, 1980, Pub. L. 96–519, §1, 94 Stat. 3031.
3721(c)(1)	31:243a(a)(words after 1st comma).	
3721(c)(2)	31:243a(e).	
3721(c)(3)	31:243a(note).	Dec. 12, 1980, Pub. L. 96–519, §2, 94 Stat. 3032.
3721(d)	31:241(f).	Aug. 31, 1964, Pub. L. 88–558, 78 Stat. 767, §3(f); added Oct. 12, 1968, Pub. L. 90–561, 82 Stat. 998.
3721(e)	31:241(c)(2).	
3721(f)	31:241(a)(1)(2d sentence words before last comma), (b)(1)(2d sentence words before last comma), (c)(3).	
	31:243a(d)(2d sentence less payment, last sentence).	
3721(g)	31:241(c)(1), (d).	
	31:243a(c).	
3721(h)	31:241(a)(3), (b)(2).	
	31:243a(b).	
3721(i)	31:243.	Aug. 31, 1964, Pub. L. 88–558, 78 Stat. 767, §8; added Sept. 15, 1965, Pub. L. 89–185, §5, 79 Stat. 791.
3721(j)	31:241(a)(1)(1st sentence words before 3d comma), (2)(words before 1st comma), (b)(1)(1st sentence words before 5th comma).	
	31:243a(a)(words before 1st comma), (d)(1st sentence).	
3721(k)	31:242.	

In the section, the words ''or his designee'' are omitted as unnecessary.

In subsections (b) and (c), the word ''civilian'' is omitted as surplus.

In subsection (b), the words ''arising after August 31, 1964'' and ''arising after October 18, 1974'' and 31:241(a)(1)(last sentence) and (b)(1)(last sentence) are omitted as executed.

In subsection (c)(1)(B), the words ''mob violence, terrorist attacks, or other'' are omitted as surplus. The word ''members'' is added for consistency.

In subsection (c)(2), the words ''in which that damage or loss occurred'' are omitted as surplus.

In subsection (c)(3), the text of section 2(last sentence) of the Act of December 12, 1980 (Pub. L. 96–519, 94 Stat. 3032) is omitted as obsolete.

Subsection (d) is substituted for 31:241(f) because of the restatement.

In subsection (e), the words ''assigned to him or otherwise'' in 31:241(c)(2) are omitted as surplus. The words ''or the District of Columbia government'' are added because of the restatement.

In subsection (f), the words ''the head of the agency decides'' are substituted for ''determined to be'' in 31:241(b)(1) for clarity.

In subsection (g), the text of 31:243a(c)(words after 1st comma) are omitted as executed. The words ''in writing'' and ''of the United States'' in 31:241(c)(1) are omitted as unnecessary.

In subsection (h)(1), the words ''the surviving . . . of a dead member, officer, or employee'' are substituted for ''If a person named in this subsection is dead'' and ''the decedent's surviving'' in 31:241(a)(3) and (b)(2) and ''if such person is deceased'' and ''the decedent's surviv-

ing'' in 31:243a(b) to omit surplus words. The words ''that arose before, concurrently with, or after the decedent's death'' in 31:241(a)(3) and (b)(2) and 31:243a(b) are omitted as surplus. The words ''child, parent, or brother or sister'' are substituted for ''(2) children, (3) father or mother, or both, or (4) brothers or sisters, or both'' to eliminate surplus words and because of 1:1. The words ''otherwise payable'' are substituted for ''otherwise covered'' for clarity.

Subsection (h)(2) is substituted for ''Claims of survivors shall be settled and paid in the order named'' in 31:241(a)(3) and (b)(2) and ''Claims of survivors shall be settled and paid in the order set forth in the preceding sentence'' in 31:243a(b) for clarity.

In subsection (i), the words ''to the contrary'' are omitted as surplus. The words ''representative of a claimant'' are substituted for ''agent or attorney'' for clarity and consistency. The words ''be paid or delivered to or'' are omitted as surplus. The word ''payment'' is substituted for ''amount paid in settlement'' to eliminate unnecessary words. The words ''individual . . . submitted and settled . . . the authority of'' are omitted as surplus. The words ''and the same shall be unlawful'' are omitted because of the restatement. The words ''shall be deemed guilty of a misdemeanor and upon conviction thereof . . . in any sum'' are omitted as surplus.

In subsection (j), the words ''the purposes of'' in 31:241(b)(1)(1st sentence words before 5th comma) are omitted as surplus. The words ''(except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard)'' are substituted for the source provisions because of the restatement. The words ''to carry out this section'' after ''regulations'' are added for clarity.

In subsection (k), the words ''Notwithstanding any other provision of law'' are omitted as unnecessary.

1983 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3721(b)	31 App.:241(a)(1), (b)(1).	July 28, 1982, Pub. L. 97–226, §1(a), 96 Stat. 245.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–106 inserted after first sentence ''If, however, the claim arose from an emergency evacuation or from extraordinary circumstances, the amount settled and paid under the authority of the preceding sentence may exceed $40,000, but may not exceed $100,000.''

1994—Subsec. (b). Pub. L. 103–236 designated existing provisions as par. (1) and added par. (2).

1988—Subsec. (b). Pub. L. 100–565, §1(1), substituted ''$40,000'' for ''$25,000''.

Subsec. (c). Pub. L. 100–565, §1(2), in amending subsec. (c) generally, redesignated former subsec. (c)(2) as (c) and substituted ''section'' for ''subsection'', struck out par. (1) which authorized agency head to pay claim against Government for not more than $40,000 to member of uniformed services, or officer or employee of agency, for damage to, or loss of, personal property in foreign country, incurred after December 30, 1978, incident to service, after evacuation from foreign country, and struck out par. (3) which limited amounts to be obligated or expended for claims to extent provided in advance in appropriation laws.

1983—Subsec. (b). Pub. L. 97–452 substituted ''$25,000'' for ''$15,000''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1088(b) of Pub. L. 104–106 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to claims arising before, on, or after the date of the enactment of this Act [Feb. 10, 1996].''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 172(b) of Pub. L. 103–236 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to claims arising on or after October 31, 1988.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2 of Pub. L. 100–565 provided that: ''The amendments made by this Act [amending this section] shall apply only to claims arising on or after the date of the enactment of this Act [Oct. 31, 1988].''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2(g) of Pub. L. 97–452 provided that: ''The amendment made by section 1(17) of this Act [amending this section] applies only to claims arising after July 27, 1982.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REPRESENTMENTS OF PREVIOUSLY PRESENTED CLAIMS

Section 1088(c) of Pub. L. 104–106 provided that:

''(1) A claim under subsection (b) of section 3721 of title 31, United States Code, that was settled under such section before the date of the enactment of this Act [Feb. 10, 1996] may be represented under such section, as amended by subsection (a), to the head of the agency concerned to recover the amount equal to the difference between the actual amount of the damage or loss and the amount settled and paid under the authority of such section before the date of the enactment of this Act, except that—

''(A) the claim shall be represented in writing within two years after the date of the enactment of this Act;

''(B) a determination of the actual amount of the damage or loss shall have been made by the head of the agency concerned pursuant to settlement of the claim under the authority of such section before the date of the enactment of this Act;

''(C) the claimant shall have proof of the determination referred to in subparagraph (B); and

''(D) the total of all amounts paid in settlement of the claim under the authority of such section may not exceed $100,000.

''(2) Subsection (k) of such section shall not apply to bar representment of a claim described in paragraph (1), but shall apply to such a claim that is represented and settled under that section after the date of the enactment of this Act.''

§ 3722. Claims of officers and employees at Government penal and correctional institutions

(a) The Attorney General may settle and pay not more than $1,000 in any one case for a claim made by an officer or employee at a United States Government penal or correctional institution for damage to, or loss of, personal property incident to employment.

(b) A claim may not be allowed under this section if the loss occurred at quarters occupied by the claimant that were not assigned or provided in kind by the Government.

(c) A claim may be allowed only if—

(1) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant;

(2) the Attorney General decides that possession of the property was reasonable or useful under the circumstances; and

(3) it is presented in writing within one year after it accrues.

(d) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim.

(e) Necessary amounts are authorized to be appropriated to carry out this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 974.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3722(a)	31:238(1st sentence).	June 10, 1949, ch. 187, 63 Stat. 167.
3722(b)	31:238(2d sentence last 25 words before last semicolon).	
3722(c)	31:238(2d sentence less last 25 words before last semicolon).	
3722(d)	31:238(last sentence).	
3722(e)	31:238(note).	

In subsection (a), the words ''and such other officer or officers as he may designate for such purpose'' are omitted as unnecessary because of 28:509. The word ''settle'' is substituted for ''consider, determine, adjust'' for consistency. The words ''the sum of'' are omitted as surplus. The words ''officer or employee'' are substituted for ''persons employed'' for consistency in the revised title and with other titles of the United States Code. The words ''or destruction'' are omitted as surplus.

In subsection (b), the words ''assigned to him . . . otherwise'' are omitted as surplus.

In subsection (c)(1), the words ''no part'' are substituted for ''not . . . in whole or in part'' because of the restatement.

In subsection (c)(2), the words ''the Attorney General decides that possession of'' are substituted for ''is determined'' for clarity. The words ''claimed to be damaged, lost, or destroyed'' and ''necessary, or proper . . . attendant'' are omitted as surplus.

In subsection (c)(3), the word ''accrues'' is substituted for ''the occurrence of the accident or incident out of which such claim arises'' to eliminate unnecessary words.

In subsection (d), the words ''A claim may be paid under this section'' are added for clarity. The words ''the amount of the settlement'' are substituted for ''an award hereunder'' for consistency. The words ''in complete satisfaction of the claim'' are substituted for ''shall release the United States, its agents or employees, from any further claim by such claimant arising out of the same incident'' to eliminate unnecessary words.

§ 3723. Small claims for privately owned property damage or loss

(a) The head of an agency (except a military department of the Department of Defense or the Coast Guard) may settle a claim for not more than $1,000 for damage to, or loss of, privately owned property that—

(1) is caused by the negligence of an officer or employee of the United States Government acting within the scope of employment; and

(2) may not be settled under chapter 171 of title 28.

(b) A claim under this section may be allowed only if it is presented to the head of the agency within one year after it accrues.

(c) A claim under this section may be paid as provided in section 1304 of this title only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 975.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3723(a)	31:215(1st sentence), 216.	Dec. 28, 1922, ch. 17, §§1–3, 42 Stat. 1066.
	31:216(note).	July 3, 1943, ch. 189, §4, 57 Stat. 373.
	31:216(note).	Dec. 28, 1945, ch. 597, §4(words before 3d comma), 59 Stat. 662.
	31:216(note).	Dec. 28, 1945, ch. 597, 59 Stat. 662, §5(last sentence); added Mar. 20, 1946, ch. 104, 60 Stat. 56.
		Aug. 2, 1946, ch. 753, §424(a)(last par. on p. 846), 60 Stat. 846.
3723(b)	31:215(last sentence proviso).	
3723(c)	31:215(last sentence less proviso), 217.	

In subsection (a), before clause (1), the text of 31:216(words before semicolon) is omitted as unnecessary because of section 102 of the revised title. The words ''acting on behalf of the Government of the United States'' in 31:215 are omitted as unnecessary. The word ''settle'' is substituted for ''consider, ascertain, adjust, and determine'' for consistency. The words ''after April 6, 1917'' are omitted as executed.

In subsection (c), the words ''A claim under this section may be paid'' are added for clarity. The words ''as provided in section 1304 of this title'' are substituted for 31:215(last sentence less proviso) because 31:215(last sentence less proviso) is superseded by section 201 of the Supplemental Appropriations Act, 1978 (Pub. L. 95–240, 92 Stat. 116). The words ''of the settlement'' are substituted for ''determined under the provisions of sections 215 and 216 of this title'' in 31:217 for consistency and to eliminate unnecessary words. The word ''complete'' is substituted for ''full'' for consistency. The word ''satisfaction'' is substituted for ''settlement'' for clarity.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice

(a) The Attorney General may settle, for not more than $50,000 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property, caused by an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice acting within the scope of employment that may not be settled under chapter 171 of title 28. An officer or employee of the United States Government may not present a claim arising during the scope of employment. A claim may be allowed only if it is presented to the Attorney General within one year after it accrues.

(b) A claim may be paid under this section only if the claimant accepts the amount of the

settlement in complete satisfaction of the claim against the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 975; Pub. L. 101–203, § 1(a), (b)(1), Dec. 7, 1989, 103 Stat. 1805; Pub. L. 105–362, title X, § 1001(c), Nov. 10, 1998, 112 Stat. 3291.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3724(a)	31:224b(words before 9th comma and between 10th and 11th commas, 1st, 2d provisos).	Mar. 20, 1936, ch. 159, 49 Stat. 1184.
	31:224b(note).	Aug. 2, 1946, ch. 753, § 424(a)(2d par. on p. 847), (b)(related to 2d par. of (a) on p. 847), 60 Stat. 847.
3724(b)	31:224b(words between 9th and 10th commas and between 11th comma and 1st proviso).	
3724(c)	31:224b(last proviso).	

In subsection (a), the words ''of the United States'' are omitted as unnecessary. The word ''settle'' is substituted for ''consider, adjust, and determine'' for consistency. The words ''after January 1, 1934'' are omitted as executed. The words ''personal injury, death'' are substituted for ''damages to any person'' for clarity. The words ''of the Department of Justice'' are omitted as unnecessary. The words ''that may not be settled under chapter 171 of title 28'' are substituted for section 424(a)(2d par. on p. 847) and (b)(related to 2d par. of (a) on p. 847) of the Legislative Reorganization Act of 1946 (31:224b(note)) because of the restatement. The words ''An officer or employee of the United States Government may not present a claim arising during the scope of employment'' are substituted for 31:224b(1st proviso) to eliminate unnecessary words. The text of 31:224b(2d proviso words after semicolon) is omitted as executed.

In subsection (b), the word ''settlement'' is substituted for ''amount as may be found due to any claimant . . . as a legal claim'' for clarity and consistency. The words ''by Congress'' are omitted as surplus.

In subsection (c), the words ''A claim may be paid under this section'' are added for clarity. The words ''of the settlement'' are substituted for ''determined to be due him under the provisions of this section'' for consistency and to eliminate unnecessary words. The word ''complete'' is substituted for ''full and final'' to eliminate unnecessary words. The word ''satisfaction'' is substituted for ''settlement'' for clarity.

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–362 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The Attorney General shall report annually to the Congress on all settlements made under this section. With respect to each such settlement, the Attorney General shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.''

1989—Pub. L. 101–203, § 1(b)(1), amended section catchline generally, substituting ''investigative or law enforcement officers of the Department of Justice'' for ''the Federal Bureau of Investigation''.

Subsec. (a). Pub. L. 101–203, § 1(a)(1), substituted ''$50,000'' for ''$500'' and ''an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice'' for ''the Director or an Assistant Director, inspector, or special agent of the Federal Bureau of Investigation''.

Subsec. (b). Pub. L. 101–203, § 1(a)(2), substituted ''report annually to the Congress on all settlements made under this section. With respect to each such settlement, the'' for ''certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2 of Pub. L. 101–203 provided that: ''The amendments made by section 1 [amending this section] shall apply to—

''(1) any claim arising on or after the date of the enactment of this Act [Dec. 7, 1989],

''(2) any claim pending on such date, and

''(3) any claim arising before such date which has not been settled if the time for presenting the claim to the Attorney General under the last sentence of section 3724(a) of title 31, United States Code, has not expired.''

SETTLEMENT OF CLAIMS FOR DAMAGE TO OR LOSS OF PRIVATELY OWNED PROPERTY

Pub. L. 106–185, § 3(b), Apr. 25, 2000, 114 Stat. 211, provided that:

''(1) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice acting within the scope of his or her employment.

''(2) LIMITATIONS.—The Attorney General may not pay a claim under paragraph (1) that—

''(A) is presented to the Attorney General more than 1 year after it accrues; or

''(B) is presented by an officer or employee of the Federal Government and arose within the scope of employment.''

§ 3725. Claims of non-nationals for personal injury or death in a foreign country

(a) The Secretary of State may settle, for not more than $1,500 in any one case, a claim for personal injury or death of an individual not a national of the United States in a foreign country in which the United States exercises privileges of extraterritoriality when the injury or death is caused by an officer, employee, or agent of the United States Government (except of a military department of the Department of Defense or the Coast Guard). An officer or employee of the Government may not present a claim. A claim under this section may be allowed only if it is presented to the Secretary within one year after it accrues.

(b) The Secretary shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Secretary shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 975.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3725(a)	31:224a(words before 21st comma, 1st, 2d provisos).	Feb. 13, 1936, ch. 67, 49 Stat. 1138.
	31:224a(note).	July 3, 1943, ch. 189, § 7, 57 Stat. 374.
		Dec. 28, 1945, ch. 597, § 1, 59 Stat. 662.
		Dec. 28, 1945, ch. 597, 59 Stat. 662, § 5(1st sentence); added Mar. 20, 1946, ch. 104, 60 Stat. 56.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3725(b)	31:224a(words between 21st comma and 1st proviso).	
3725(c)	31:224a(last proviso).	

In subsection (a), the word ''settle'' is substituted for ''consider, adjust, and determine'' for consistency. The words ''United States currency'' are omitted as surplus. The words ''after February 13, 1936'' are omitted as executed. The words ''act of omission of any'' are omitted as surplus. The words ''(except of a military department of the Department of Defense or the Coast Guard)'' are substituted for ''including all officers, enlisted men, and employees of the Army, Air Force, Navy, and Marine Corps'' because of 10:2734, section 7 of the Act of July 3, 1943 (ch. 189, 57 Stat. 374), and sections 1 and 5(1st sentence) of the Act of December 28, 1945 (ch. 597, 59 Stat. 662). The words ''An officer or employee of the Government may not present a claim'' are substituted for 31:224a(1st proviso) for consistency and to eliminate unnecessary words. The words ''by the Secretary of State'' are omitted as surplus.

In subsection (b), the word ''settlement'' is substituted for ''amount as may be found to be due to any claimant . . . as a legal claim'' for clarity and consistency. The words ''by Congress'' are omitted as surplus.

In subsection (c), the words ''A claim may be paid under this section'' are added for clarity. The words ''of the settlement'' are substituted for ''determined under the provisions of this section'' for consistency and to eliminate unnecessary words. The word ''complete'' is substituted for ''full'' for consistency. The word ''satisfaction'' is substituted for ''settlement'' for clarity.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3726. Payment for transportation

(a)(1) Each agency that receives a bill from a carrier or freight forwarder for transporting an individual or property for the United States Government shall verify its correctness (to include transportation rates, freight classifications, or proper combinations thereof), using prepayment audit, prior to payment in accordance with the requirements of this section and regulations prescribed by the Administrator of General Services.

(2) The Administrator of General Services may exempt bills, a particular mode or modes of transportation, or an agency or subagency from a prepayment audit and verification and in lieu thereof require a postpayment audit, based on cost effectiveness, public interest, or other factors the Administrator considers appropriate.

(3) Expenses for prepayment audits shall be funded by the agency's appropriations used for the transportation services.

(4) The audit authority provided to agencies by this section is subject to oversight by the Administrator.

(b) The Administrator may conduct pre- or post-payment audits of transportation bills of any Federal agency. The number and types of bills audited shall be based on the Administrator's judgment.

(c)(1) The Administrator shall adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill.

(2) A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

(A) The date of accrual of the claim.

(B) The date payment for the transportation is made.

(C) The date a refund for an overpayment for the transportation is made.

(D) The date a deduction under subsection (d) of this section is made.

(d) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under—

(1) a lawful tariff under title 49 or on file with the Secretary of Transportation with respect to foreign air transportation (as defined in section 40102(a) of title 49), the Federal Maritime Commission, or a State transportation authority;

(2) a lawfully quoted rate subject to the jurisdiction of the Surface Transportation Board; or

(3) sections 10721, 13712, and 15504 of title 49 or an equivalent arrangement or an exemption.

(e) Expenses of transportation audit postpayment contracts and contract administration, and the expenses of all other transportation audit and audit-related functions conferred upon the Administrator of General Services, shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds, not to exceed collections. Payment to any contractor for audit services shall not exceed 50 percent of the overpayment identified by contract audit.

(f) At least annually, and as determined by the Administrator, after making adequate provision for expense of refunds to carriers, transportation audit postpayment contracts, contract administration, and other expenses authorized in subsection (e), overpayments collected by the General Services Administration shall be transferred to miscellaneous receipts of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress. This reporting requirement expires December 31, 1998.

(g) The Administrator may delegate any authority conferred by this section to another agency or agencies if the Administrator determines that such a delegation would be cost-effective or otherwise in the public interest.

(h) Under regulations the head of an agency prescribes that conform with standards the Secretary of the Treasury prescribes, a bill under

this section may be paid before the transportation is completed notwithstanding section 3324 of this title when a carrier or freight forwarder issues the usual document for the transportation. Payment for transportation ordered but not provided may be recovered by deduction or other means.

(i)(1) A carrier or freight forwarder may request the Administrator of General Services to review the action of the Administrator if the request is received not later than 6 months (excluding time of war) after the Administrator acts or within the time stated in subsection (c) of this section, whichever is later.

(2) This section does not prevent the Comptroller General from conducting an audit under chapter 35 of this title.

(j) The Administrator of General Services may provide transportation audit and related technical assistance services, on a reimbursable basis, to any other agency. Such reimbursements may be credited to the appropriate revolving fund or appropriation from which the expenses were incurred.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 976; Pub. L. 98–443, § 9(f), Oct. 4, 1984, 98 Stat. 1707; Pub. L. 99–627, § 1, Nov. 7, 1986, 100 Stat. 3508; Pub. L. 103–123, title VI, § 620A, Oct. 28, 1993, 107 Stat. 1265; Pub. L. 103–272, §§ 4(f)(1)(N), 5(i)(2), July 5, 1994, 108 Stat. 1362, 1375; Pub. L. 103–429, § 7(a)(3)(B), Oct. 31, 1994, 108 Stat. 4388; Pub. L. 104–88, title III, § 306, Dec. 29, 1995, 109 Stat. 945; Pub. L. 104–316, title II, § 202(*o*), Oct. 19, 1996, 110 Stat. 3844; Pub. L. 105–264, § 3(a)(3), Oct. 19, 1998, 112 Stat. 2353.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3726(a)	31:244(a)(1st sentence, last sentence last proviso).	Sept. 18, 1940, ch. 722, § 322(a), 54 Stat. 955; Aug. 26, 1958, Pub. L. 85–762, § 2, 72 Stat. 860; Oct. 25, 1972, Pub. L. 92–550, § 1(a), 86 Stat. 1163; Jan. 2, 1975, Pub. L. 93–604, § 201(1), (2), 88 Stat. 1960.
3726(b)	31:244(a)(2d sentence, last sentence less last proviso).	
3726(c)	31:244(c), (d).	Sept. 18, 1940, ch. 722, 54 Stat. 898, § 322(c), (d); added Oct. 25, 1972, Pub. L. 92–550, § 1(b), 86 Stat. 1164; Jan. 2, 1975, Pub. L. 93–604, § 201(3), 88 Stat. 1960.
3726(d)(1)	31:244(b).	Sept. 18, 1940, ch. 722, 54 Stat. 898, § 322(b); added Jan. 2, 1975, Pub. L. 93–604, § 201(3), 88 Stat. 1960.
3726(d)(2)	31:244(a)(3d sentence).	

In the section, the words ''Administrator of General Services'' are substituted for ''General Services Administration, or his designee'' for consistency. The word ''freight'' is added for clarity and consistency with 49:10101 et seq.

In subsection (a), before clause (1), the word ''individual'' is substituted for ''persons'' for consistency. The words ''or on behalf of'' are omitted as unnecessary. The words ''for charges for transportation . . . the purview of'' are omitted as surplus. In clause (1), the word ''claim'' is substituted for ''cause of action thereon'' for consistency. In clauses (2) and (3), the words ''is made'' are substituted for ''of charges . . . involved'' and ''subsequent . . . of such charges'' to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''*Provided, however*, That such deductions shall be made'' are omitted because of the restatement. The words ''found to be'' are omitted as surplus. The words ''of any overcharge by any carrier or forwarder'' and ''The term 'overcharges' shall be deemed to mean . . . those applicable thereto'' are omitted because of the restatement. The word ''rate'' is substituted for ''charges for transportation services'' and ''rates, fares, and charges'' for consistency with title 49. In clause (1), the word ''authority'' is substituted for ''regulatory agency'' for consistency. In clause (2), the words ''established'' and ''contract . . . from regulation'' are omitted as surplus.

In subsection (c), the text of 31:244(d) and the words ''Government'', ''or his designee'', and ''of the United States'' are omitted as unnecessary. The words ''under this section'' are substituted for ''for passenger or freight transportation services to be furnished the United States by any carrier or forwarder'' to eliminate unnecessary words. The word ''transportation'' is substituted for ''services'' for consistency. The words ''ticket, receipt, bill of lading, or equivalent . . . involved'' and ''as ordered by the United States'' are omitted as surplus.

In subsection (d)(1), the words ''may request'' are substituted for ''Nothing in subsection (a) of this section hereof shall be deemed to prevent . . . from requesting'' to eliminate unnecessary words. The words ''of limitation'' are omitted as surplus.

In subsection (d)(2), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–264, § 3(a)(3)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government may be paid before the Administrator of General Services conducts an audit, in accordance with regulations that the Administrator shall prescribe. A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

''(1) accrual of the claim;

''(2) payment for the transportation is made;

''(3) refund for an overpayment for the transportation is made; or

''(4) a deduction under subsection (b) of this section is made.''

Subsecs. (b) to (e). Pub. L. 105–264, § 3(a)(3)(B), (C), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively. Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

Subsec. (f). Pub. L. 105–264, § 3(a)(3)(B), (D), redesignated subsec. (d) as (f), substituted ''subsection (e)'' for ''subsection (c)'', and inserted at end ''This reporting requirement expires December 31, 1998.'' Former subsec. (f) redesignated (h).

Subsecs. (g), (h). Pub. L. 105–264, § 3(a)(3)(B), redesignated subsecs. (e) and (f) as (g) and (h), respectively. Former subsec. (g) redesignated (i).

Subsec. (i). Pub. L. 105–264, § 3(a)(3)(B), redesignated subsec. (g) as (i).

Subsec. (i)(1). Pub. L. 105–264, § 3(a)(3)(E), substituted ''subsection (c)'' for ''subsection (a)''.

Subsec. (j). Pub. L. 105–264, § 3(a)(3)(F), added subsec. (j).

1996—Subsec. (f). Pub. L. 104–316, § 202(*o*)(1), substituted ''Treasury prescribes'' for ''Treasury and the Comptroller General prescribe jointly''.

Subsec. (g)(1). Pub. L. 104–316, § 202(*o*)(2), substituted ''Administrator of General Services'' for ''Comptroller General''.

1995—Subsec. (b)(1). Pub. L. 104–88, § 306(1), (2), substituted ''under title 49 or on file with'' for ''on file with the Interstate Commerce Commission,'' and struck out ''or'' after the semicolon at end.

Subsec. (b)(2). Pub. L. 104–88, § 306(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 104–88, § 306(3), (5), redesignated par. (2) as (3) and substituted ''sections 10721, 13712, and 15504'' for ''sections 10721–10724''.

1994—Subsec. (b)(1). Pub. L. 103–272, § 5(i)(2), substituted ''section 40102(a) of title 49'' for ''the Federal Aviation Act of 1958''.

Subsec. (d). Pub. L. 103–272, § 4(f)(1)(N), which directed the substitution of ''miscellaneous receipts'' for ''miscellaneous receipt'', was repealed by Pub. L. 103–429.

1993—Subsecs. (c) and (d). Pub. L. 103–123 amended subsecs. (c) and (d) generally. Prior to amendment, subsecs. (c) and (d) read as follows:

''(c) Expenses of transportation audit contracts and contract administration shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds at not to exceed 40 percent of such collections annually. Payment to any contractor shall not exceed 50 percent of the overpayments identified by any contract audit.

''(d) At least annually, and as determined by the Administrator, after making adequate provision for expenses of refunds to carriers, transportation audit contracts, and contract administration authorized in subsection (c), the balance of the overpayments collected by the General Services Administration shall be transferred to miscellaneous receipt of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress.''

1986—Subsec. (a). Pub. L. 99–627, § 1(1), amended first sentence generally, substituting ''may be paid before the Administrator of General Services conducts an audit, in accordance with regulations that the Administrator shall prescribe'' for ''shall be paid before the Administrator of General Services conducts an audit''.

Subsecs. (c) to (g). Pub. L. 99–627, § 1(2), (3), added subsecs. (c) to (e) and redesignated former subsecs. (c) and (d) as (f) and (g), respectively.

1984—Subsec. (b)(1). Pub. L. 98–443 substituted ''Secretary of Transportation with respect to foreign air transportation (as defined in the Federal Aviation Act of 1958)'' for ''Civil Aeronautics Board''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–264 effective 18 months after Oct. 19, 1998, see section 3(b) of Pub. L. 105–264, set out as a note under section 3322 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103–429 provided that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

TASK FORCE

Section 2 of Pub. L. 99–627 provided that:

''(a) Within 60 days after the date of enactment of this Act [Nov. 7, 1986], the Administrator of General Services shall establish a task force to study and investigate the feasibility, desirability, and economy of an integrated, automated system that Federal agencies may use in managing the transportation of property for the United States.

''(b) The task force established under subsection (a) shall—

''(1) be chaired by a representative of the Administrator;

''(2) include representatives of the Department of Defense and other Federal agencies significantly involved in the transportation of property for the United States; and

''(3) solicit the views of private businesses with expertise in the matters being considered by the task force.

''(c) In studying and investigating the integrated, automated system, the task force shall consider including in that system such elements as automated routing, rating, documentation, payment, and auditing.

''(d) Each department, agency, and instrumentality of the Federal Government shall furnish to the task force, upon its request, such data, reports, and other information (not otherwise prohibited by law) as the task force deems necessary to carry out its functions under this section.

''(e) The head of each such department, agency, and instrumentality may provide to the task force such services and personnel as the task force requests on such basis (reimbursable or otherwise) as may be agreed upon between such department, agency, or instrumentality and the task force.

''(f) The task force shall submit a final report on the results of its study and investigation to the Congress not later than July 1, 1988.''

§ 3727. Assignments of claims

(a) In this section, ''assignment'' means—

(1) a transfer or assignment of any part of a claim against the United States Government or of an interest in the claim; or

(2) the authorization to receive payment for any part of the claim.

(b) An assignment may be made only after a claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued. The assignment shall specify the warrant, must be made freely, and must be attested to by 2 witnesses. The person making the assignment shall acknowledge it before an official who may acknowledge a deed, and the official shall certify the assignment. The certificate shall state that the official completely explained the assignment when it was acknowledged. An assignment under this subsection is valid for any purpose.

(c) Subsection (b) of this section does not apply to an assignment to a financing institution of money due or to become due under a contract providing for payments totaling at least $1,000 when—

(1) the contract does not forbid an assignment;

(2) unless the contract expressly provides otherwise, the assignment—

(A) is for the entire amount not already paid;

(B) is made to only one party, except that it may be made to a party as agent or trustee for more than one party participating in the financing; and

(C) may not be reassigned; and

(3) the assignee files a written notice of the assignment and a copy of the assignment with the contracting official or the head of the agency, the surety on a bond on the contract, and any disbursing official for the contract.

(d) During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law, a contract with the Department of Defense, the General Services Administration, the Department of Energy (when carrying out duties and powers formerly

carried out by the Atomic Energy Commission), or other agency the President designates may provide, or may be changed without consideration to provide, that a future payment under the contract to an assignee is not subject to reduction or setoff. A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without a reduction or setoff for liability of the assignor—

(1) to the Government independent of the contract; or

(2) because of renegotiation, fine, penalty (except an amount that may be collected or withheld under, or because the assignor does not comply with, the contract), taxes, social security contributions, or withholding or failing to withhold taxes or social security contributions, arising from, or independent of, the contract.

(e)(1) An assignee under this section does not have to make restitution of, refund, or repay the amount received because of the liability of the assignor to the Government that arises from or is independent of the contract.

(2) The Government may not collect or reclaim money paid to a person receiving an amount under an assignment or allotment of pay or allowances authorized by law when liability may exist because of the death of the person making the assignment or allotment.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 976.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3727(a)	31:203(1st par. words before 9th comma).	R.S. §3477; May 27, 1908, ch. 206(last par. on p. 411), 35 Stat. 411; Oct. 9, 1940, ch. 779, §1(related to §3477), 54 Stat. 1029; May 15, 1951, ch. 75, §1(related to §1 related to §3477), 65 Stat. 41.
3727(b)	31:203(1st par. words after 9th comma, 3d, last pars.).	
3727(c)	31:203(2d par.).	
3727(d)	31:203(5th par.).	
3727(e)(1)	31:203(4th par.).	
3727(e)(2)	31:239.	Aug. 10, 1956, ch. 1041, §45, 70A Stat. 638.

In subsection (a)(1), the words ''or share thereof'' and ''whether absolute or conditional, and whatever may be the consideration therefor'' are omitted as surplus. In clause (2), the word ''authorization'' is substituted for ''powers of attorney, orders, or other authorities'' to eliminate unnecessary words.

In subsections (b) and (c), the word ''official'' is substituted for ''officer'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''Except as hereinafter provided'' are omitted as unnecessary. The words ''read and'' are omitted as surplus. The words ''to the person acknowledging the same'' are omitted as unnecessary. The text of 31:203(1st par. last sentence) is omitted as superseded by 39:410. The words ''Notwithstanding any law to the contrary governing the validity of assignments'' and the text of 31:203(last par.) are omitted as unnecessary.

In subsection (c), before clause (1), the words ''bank, trust company, or other . . . including any Federal lending agency'' are omitted as surplus. The words ''of money due or to become due under a contract providing for payments totaling at least $1,000'' are substituted for ''in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more'' to eliminate unnecessary words. The text of 31:203(2d par. proviso cl. 1) is omitted as executed. In clause (1), the words ''in the case of any contract entered into after October 9, 1940'' are omitted as executed. In clause (2)(A), the words ''payable under such contract'' are omitted as surplus. In clause (3), the words ''true'' and ''instrument of'' are omitted as surplus. The words ''department or'' are omitted because of the restatement. The words ''if any'' and ''to make payment'' are omitted as surplus.

In subsection (d), before clause (1), the words ''During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law'' are substituted for ''in time of war or national emergency proclaimed by the President (including the national emergency proclaimed December 16, 1950) or by Act or joint resolution of the Congress and until such war or national emergency has been terminated in such manner'' to eliminate unnecessary words. The words ''Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission)'' are substituted for ''Atomic Energy Commission'' (which was reconstituted as the Energy Research and Development Administration by 42:5813 and 5814) because of 42:7151(a) and 7293. The words ''other department or . . . of the United States . . . except any such contract under which full payment has been made'' and ''of any moneys due or to become due under such contract'' before ''shall not be subject'' are omitted as surplus. The words ''A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without'' are substituted for ''and if such provision or one to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract, whether during or after such war or emergency . . . hereafter'' to eliminate unnecessary words. The words ''of any nature'' are omitted as surplus. In clause (1), the words ''or any department or agency thereof'' are omitted as unnecessary. In clause (2), the words ''under any renegotiation statute or under any statutory renegotiation article in the contract'' are omitted as surplus.

Subsection (e)(1) is substituted for 31:203(4th par.) to eliminate unnecessary words.

In subsection (e)(2), the words ''person receiving an amount under an assignment or allotment'' are substituted for ''assignees, transferees, or allottees'' for clarity and consistency. The words ''or to others for them'' and ''with respect to such assignments, transfers, or allotments or the use of such moneys'' are omitted as surplus. The words ''person making the assignment or allotment'' are substituted for ''assignors, transferors, or allotters'' for clarity and consistency.

§ 3728. Setoff against judgment

(a) The Secretary of the Treasury shall withhold paying that part of a judgment against the United States Government presented to the Secretary that is equal to a debt the plaintiff owes the Government.

(b) The Secretary shall—

(1) discharge the debt if the plaintiff agrees to the setoff and discharges a part of the judgment equal to the debt; or

(2)(A) withhold payment of an additional amount the Secretary decides will cover legal costs of bringing a civil action for the debt if the plaintiff denies the debt or does not agree to the setoff; and

(B) have a civil action brought if one has not already been brought.

(c) If the Government loses a civil action to recover a debt or recovers less than the amount

the Secretary withholds under this section, the Secretary shall pay the plaintiff the balance and interest of 6 percent for the time the money is withheld.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 977; Pub. L. 104–316, title II, § 202(p), Oct. 19, 1996, 110 Stat. 3844.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3728(a)	31:227(1st sentence words before semicolon).	Mar. 3, 1875, ch. 149, 18 Stat. 481; restated Mar. 3, 1933, ch. 212, § 13, 47 Stat. 1516.
3728(b)	31:227(1st sentence words after semicolon, 2d, 3d sentences).	
3728(c)	31:227(last sentence).	

In the section, the words ''of the United States'' are omitted as unnecessary.

In subsection (a), the words ''final . . . recovered . . . duly allowed by legal authority'', ''for payment'', and ''in any manner, whether as principal or surety'' are omitted as surplus.

In subsection (b)(1), the words ''due from the plaintiff to the United States'' are omitted as surplus.

In subsection (b)(2)(A), the words ''of such judgment'', ''be sufficient to'', and ''charges and'' are omitted as surplus. The words ''of bringing a civil action'' are substituted for ''in prosecuting the debt'' for consistency in the revised title and with other titles of the United States Code. The words ''of the United States to final judgment'' and ''to the United States'' are omitted as surplus.

Subsection (b)(2)(B) is substituted for 31:227(3d sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words ''for debt and costs'', ''thereon'', and ''from the plaintiff'' are omitted as surplus.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–316, § 202(p)(1), (2), substituted ''Secretary of the Treasury'' for ''Comptroller General'' before ''shall withhold'' and ''Secretary'' for ''Comptroller General'' after ''presented to the''.

Subsecs. (b), (c). Pub. L. 104–316, § 202(p)(2), substituted ''Secretary'' for ''Comptroller General'' wherever appearing.

§ 3729. False claims

(a) LIABILITY FOR CERTAIN ACTS.—Any person who—

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that—

(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any Government investigation of such violation; and

(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation;

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

(b) KNOWING AND KNOWINGLY DEFINED.—For purposes of this section, the terms ''knowing'' and ''knowingly'' mean that a person, with respect to information—

(1) has actual knowledge of the information;

(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.

(c) CLAIM DEFINED.—For purposes of this section, ''claim'' includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(d) EXEMPTION FROM DISCLOSURE.—Any information furnished pursuant to subparagraphs (A) through (C) of subsection (a) shall be exempt from disclosure under section 552 of title 5.

(e) EXCLUSION.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 978; Pub. L. 99–562, § 2, Oct. 27, 1986, 100 Stat. 3153; Pub. L. 103–272, § 4(f)(1)(O), July 5, 1994, 108 Stat. 1362.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3729	31:231.	R.S. § 3490.

In the section, before clause (1), the words ''a member of an armed force of the United States'' are substituted for ''in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States'' and ''military or naval service'' for consistency with title 10. The words ''is liable'' are substituted for ''shall forfeit and pay'' for consistency. The words ''civil action'' are substituted for ''suit'' for consistency in the revised title and with other titles of the United States Code. The words ''and such forfeiture and damages shall be sued for in the same suit'' are omitted as unnecessary because of rules 8 and 10 of the Federal Rules of Civil Procedure (28 App. U.S.C.). In clauses (1)–(3), the words ''false or fraudulent'' are substituted for ''false, fictitious, or fraudulent'' and ''Fraudulent or fictitious'' to eliminate unnecessary words and for consistency. In clause (1), the words ''presents, or causes to be presented'' are substituted for ''shall make or cause to be made, or present or cause to be presented'' for clarity and consistency and to eliminate unnecessary words. The words ''officer or employee of the Government or a member of an armed force'' are substituted for ''officer in the civil, military, or naval service of the United States'' for consistency in the revised title and with other titles of the Code. The words ''upon or against the Government of the United States, or any department of the United States, or any department or officer thereof'' are omitted as surplus. In clause (2), the word ''knowingly'' is substituted for ''knowing the same to contain any fraudulent or fictitious statement or entry'' to eliminate unnecessary words. The words ''record or statement'' are substituted for ''bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition'' for consistency in the revised title and with other titles of the Code. In clause (3), the words ''conspires to'' are substituted for ''enters into any agreement, combination, or conspiracy'' to eliminate unnecessary words. The words ''of the United States, or any department or officer thereof'' are omitted as surplus. In clause (4), the words ''charge'', ''or other'', and ''to any other person having authority to receive the same'' are omitted as surplus. In clause (5), the words ''document certifying receipt'' are substituted for ''certificate, voucher, receipt, or other paper certifying the receipt'' to eliminate unnecessary words. The words ''arms, ammunition, provisions, clothing, or other'', ''to any other person'', and ''the truth of'' are omitted as surplus. In clause (6), the words ''arms, equipments, ammunition, clothes, military stores, or other'' are omitted as surplus. The words ''member of an armed force'' are substituted for ''soldier, officer, sailor, or other person called into or employed in the military or naval service'' for consistency with title 10. The words ''such soldier, sailor, officer, or other person'' are omitted as surplus.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (e), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–272 substituted ''1986'' for ''1954''.

1986—Subsec. (a). Pub. L. 99–562, § 2(1), designated existing provisions as subsec. (a), inserted subsec. heading, and substituted ''Any person who'' for ''A person not a member of an armed force of the United States is liable to the United States Government for a civil penalty of $2,000, an amount equal to 2 times the amount of damages the Government sustains because of the act of that person, and costs of the civil action, if the person'' in introductory provisions.

Subsec. (a)(1). Pub. L. 99–562, § 2(2), substituted ''United States Government or a member of the Armed Forces of the United States'' for ''Government or a member of an armed force''.

Subsec. (a)(2). Pub. L. 99–562, § 2(3), inserted ''by the Government'' after ''approved''.

Subsec. (a)(4). Pub. L. 99–562, § 2(4), substituted ''control of property'' for ''control of public property'' and ''by the Government'' for ''in an armed force''.

Subsec. (a)(5). Pub. L. 99–562, § 2(5), substituted ''by the Government'' for ''in an armed force'' and ''true;'' for ''true; or''.

Subsec. (a)(6). Pub. L. 99–562, § 2(6), substituted ''an officer or employee of the Government, or a member of the Armed Forces,'' for ''a member of an armed force'' and ''property; or'' for ''property.''

Subsec. (a)(7). Pub. L. 99–562, § 2(7), added par. (7).

Subsecs. (b) to (e). Pub. L. 99–562, § 2(7), added subsecs. (b) to (e).

INCREASED PENALTIES FOR FALSE CLAIMS IN DEFENSE PROCUREMENT

Pub. L. 99–145, title IX, § 931(b), Nov. 8, 1985, 99 Stat. 699, provided that: ''Notwithstanding section 3729 of title 31, United States Code, the amount of the liability under that section in the case of a person who makes a false claim related to a contract with the Department of Defense shall be a civil penalty of $2,000, an amount equal to three times the amount of the damages the Government sustains because of the act of the person, and costs of the civil action.''

[Section 931(c) of Pub. L. 99–145 provided that section 931(b) is applicable to claims made or presented on or after Nov. 8, 1985.]

§ 3730. Civil actions for false claims

(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate a violation under section 3729. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person.

(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under

seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

(A) proceed with the action, in which case the action shall be conducted by the Government; or

(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

(c) RIGHTS OF THE PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2)(A) The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

(i) limiting the number of witnesses the person may call;

(ii) limiting the length of the testimony of such witnesses;

(iii) limiting the person's cross-examination of witnesses; or

(iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

(4) Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government[1] Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person

[1] So in original. Probably should be ''General''.

under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.

(4) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(e) CERTAIN ACTIONS BARRED.—(1) No court shall have jurisdiction over an action brought by a former or present member of the armed forces under subsection (b) of this section against a member of the armed forces arising out of such person's service in the armed forces.

(2)(A) No court shall have jurisdiction over an action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

(B) For purposes of this paragraph, ''senior executive branch official'' means any officer or employee listed in paragraphs (1) through (8) of section 101(f) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

(4)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government[2] Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph, ''original source'' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

(f) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

(g) FEES AND EXPENSES TO PREVAILING DEFENDANT.—In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28 shall apply.

(h) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 978; Pub. L. 99–562, §§ 3, 4, Oct. 27, 1986, 100 Stat. 3154, 3157; Pub. L. 100–700, § 9, Nov. 19, 1988, 102 Stat. 4638; Pub. L. 101–280, § 10(a), May 4, 1990, 104 Stat. 162; Pub. L. 103–272, § 4(f)(1)(P), July 5, 1994, 108 Stat. 1362.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3730(a)	31:233.	R.S. § 3492.
3730(b)(1)	31:232(A), (B)(less words between 3d and 4th commas).	R.S. § 3491(A)–(E); restated Dec. 23, 1943, ch. 377, § 1, 57 Stat. 608; June 11, 1960, Pub. L. 86–507, § 1(28), (29), 74 Stat. 202.
3730(b)(2)	31:232(C)(1st–3d sentences, 5th sentence proviso).	
3730(b)(3)	31:232(C)(4th sentence, 5th sentence less proviso).	

[2] So in original. Probably should be ''General''.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3730(b)(4)	31:232(C)(last sentence), (D).	
3730(c)(1)	31:232(E)(1).	
3730(c)(2)	31:232(E)(2)(less proviso).	
3730(d)	31:232(B)(words between 3d and 4th commas), (E)(2)(proviso).	

In the section, the words ''civil action'' are substituted for ''suit'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''Attorney General'' are substituted for ''several district attorneys of the United States [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)] for the respective districts, for the District of Columbia, and for the several Territories'' because of 28:509. The words ''by persons liable to such suit'' are omitted as surplus. The words ''and found within their respective districts or Territories'' are omitted because of the restatement. The words ''If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person'' are substituted for ''and to cause them to be proceeded against in due form of law for the recovery of such forfeiture and damages'' for clarity and consistency. The words ''as the district judge may order'' are omitted as surplus. The words ''of the Attorney General'' are substituted for ''the person bringing the suit'' for consistency in the section.

In subsection (b)(1), the words ''Except as hereinafter provided'' are omitted as unnecessary. The words ''for a violation of section 3729 of this title'' are added because of the restatement. The words ''and carried on'', ''several'' and ''full power and'' are omitted as surplus. The words ''of the action'' are substituted for ''to hear, try, and determine such suit'' to eliminate unnecessary words. The words ''Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs'' are substituted for ''within whose jurisdictional limits the person doing or committing such act shall be found, shall wheresoever such act may have been done or committed'' for consistency in the revised title and with other titles of the Code. The words ''withdrawn or'' and ''judge of the'' are omitted as surplus. The words ''Attorney General'' are substituted for ''district attorney [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)], first filed in the case'' because of 28:509.

In subsection (b)(2), before clause (A), the words ''bill of'', ''Whenever any such suit shall be brought by any person under clause (B) of this section'' and ''to the effective prosecution of such suit or'' are omitted as surplus. The words ''served on the Government under rule 4 of the Federal Rules of Civil Procedure (28 App. U.S.C.)'' are substituted for ''notice . . . shall be given to the United States by serving upon the United States Attorney for the district in which such suit shall have been brought . . . and by sending, by registered mail, or by certified mail, to the Attorney General of the United States at Washington, District of Columbia'' because of 28:509 and to eliminate unnecessary words. The words ''proceed with the action'' are added for clarity. Clause (A) is substituted for ''shall fail, or decline in writing to the court, during said period of sixty days to enter any such suit'' for clarity and consistency. In clause (B), the words ''a period of'' and ''therein'' are omitted as surplus.

In subsection (b)(3), the words ''within said period'' are omitted as surplus. The words ''proceeds with the action'' are substituted for ''shall enter appearance in such suit'' for consistency. The words ''In carrying on such suit'' and ''and may proceed in all respects as if it were instituting the suit'' are omitted as surplus.

In subsection (b)(4), the words ''Unless the Government proceeds with the action'' are added because of the restatement. The words ''shall dismiss an action brought by the person on discovering'' are substituted for ''shall have no jurisdiction to proceed with any such suit . . . or pending suit . . . whenever it shall be made to appear that'' to eliminate unnecessary words. The words ''or any agency, officer, or employee thereof'' are omitted as unnecessary. The text of 31:232(C)(last sentence proviso) and (D) is omitted as executed.

In subsection (c), the words ''herein provided'', ''fair and . . . compensation to such person'', and ''involved therein, which shall be collected'' are omitted as surplus.

In subsection (c)(2), the words ''whether heretofore or hereafter brought'' are omitted as unnecessary. The words ''bringing the action or settling the claim'' are substituted for ''who brought such suit and prosecuted it to final judgment, or to settlement'' for clarity and consistency. The words ''as provided in clause (B) of this section'' are omitted as unnecessary. The words ''the civil penalty'' are substituted for ''forfeiture'' for clarity and consistency. The words ''to his own use'', ''the court may'', and ''to be allowed and taxed according to any provision of law or rule of court in force, or that shall be in force in suits between private parties in said court'' are omitted as surplus.

Subsection (d) is substituted for 31:232(B)(words between 3d and 4th commas) and (E)(2)(proviso) to eliminate unnecessary words.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), (3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 101(f) of the Ethics in Government Act of 1978, referred to in subsec. (e)(2)(B), is section 101(f) of Pub. L. 95–521, title I, Oct. 26, 1978, 92 Stat. 1824, as amended, which was set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (e)(2)(B). Pub. L. 103–272 substituted ''paragraphs (1) through (8)'' for ''section paragraphs (1) through (8)''.

1990—Subsec. (e)(2)(B). Pub. L. 101–280 substituted ''paragraphs (1) through (8) of section 101(f)'' for ''201(f)''.

1988—Subsec. (c)(4). Pub. L. 100–700, § 9(b)(1), which directed amendment of section 3730 of title 28 by substituting ''with the action'' for ''with action'' in subsec. (c)(4), was executed to subsec. (c)(4) of this section as the probable intent of Congress.

Subsec. (d)(3). Pub. L. 100–700, § 9(a)(1), (2), added par. (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 100–700, § 9(b)(2), which directed amendment of section 3730 of title 28 by substituting ''claim of the person bringing the action'' for ''claim of the person bringing the actions'' in subsec. (d)(4), was executed to subsec. (d)(4) of this section as the probable intent of Congress.

Pub. L. 100–700, § 9(a)(1), redesignated former par. (3) as (4).

1986—Pub. L. 99–562, § 3, amended section generally, revising and expanding provisions of subsecs. (a) to (c), adding subsecs. (d) and (e), redesignating former subsec. (d) as (f), and adding subsec. (g).

Subsec. (h). Pub. L. 99–562, § 4, added subsec. (h).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 10(c) of Pub. L. 101–280 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 2397a of Title 10, Armed Forces] shall take effect on January 1, 1991.''

§ 3731. False claims procedure

(a) A subpena requiring the attendance of a witness at a trial or hearing conducted under

section 3730 of this title may be served at any place in the United States.

(b) A civil action under section 3730 may not be brought—

(1) more than 6 years after the date on which the violation of section 3729 is committed, or

(2) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed,

whichever occurs last.

(c) In any action brought under section 3730, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(d) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of section 3730.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 979; Pub. L. 99–562, § 5, Oct. 27, 1986, 100 Stat. 3158.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3731(a)	31:232(F).	R.S. § 3491(F); added Nov. 2, 1978, Pub. L. 95–582, § 1, 92 Stat. 2479.
3731(b)	31:235.	R.S. § 3494.

In subsection (b), the words ''A civil action under section 3730 of this title'' are substituted for ''Every such suit'' for clarity.

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (d), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The Federal Rules of Evidence, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1986—Subsecs. (b) to (d). Pub. L. 99–562 added subsecs. (b) to (d) and struck out former subsec. (b) which read as follows: ''A civil action under section 3730 of this title must be brought within 6 years from the date the violation is committed.''

§ 3732. False claims jurisdiction

(a) ACTIONS UNDER SECTION 3730.—Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

(b) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any action brought under the laws of any State for the recovery of funds paid by a State or local government if the action arises from the same transaction or occurrence as an action brought under section 3730.

(Added Pub. L. 99–562, § 6(a), Oct. 21, 1986, 100 Stat. 3158.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 3733. Civil investigative demands

(a) IN GENERAL.—

(1) ISSUANCE AND SERVICE.—Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General may, before commencing a civil proceeding under section 3730 or other false claims law, issue in writing and cause to be served upon such person, a civil investigative demand requiring such person—

(A) to produce such documentary material for inspection and copying,

(B) to answer in writing written interrogatories with respect to such documentary material or information,

(C) to give oral testimony concerning such documentary material or information, or

(D) to furnish any combination of such material, answers, or testimony.

The Attorney General may not delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

(2) CONTENTS AND DEADLINES.—

(A) Each civil investigative demand issued under paragraph (1) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

(B) If such demand is for the production of documentary material, the demand shall—

(i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

(ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

(iii) identify the false claims law investigator to whom such material shall be made available.

(C) If such demand is for answers to written interrogatories, the demand shall—

(i) set forth with specificity the written interrogatories to be answered;

(ii) prescribe dates at which time answers to written interrogatories shall be submitted; and

(iii) identify the false claims law investigator to whom such answers shall be submitted.

(D) If such demand is for the giving of oral testimony, the demand shall—

(i) prescribe a date, time, and place at which oral testimony shall be commenced;

(ii) identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;

(iii) specify that such attendance and testimony are necessary to the conduct of the investigation;

(iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

(v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(E) Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the discovery was obtained.

(F) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the Attorney General or an Assistant Attorney General designated by the Attorney General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

(G) The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. The Attorney General may not, notwithstanding section 510 of title 28, authorize the performance, by any other officer, employee, or agency, of any function vested in the Attorney General under this subparagraph.

(b) PROTECTED MATERIAL OR INFORMATION.—

(1) IN GENERAL.—A civil investigative demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under—

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States to aid in a grand jury investigation; or

(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

(2) EFFECT ON OTHER ORDERS, RULES, AND LAWS.—Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(c) SERVICE; JURISDICTION.—

(1) BY WHOM SERVED.—Any civil investigative demand issued under subsection (a) may be served by a false claims law investigator, or by a United States marshal or a deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

(2) SERVICE IN FOREIGN COUNTRIES.—Any such demand or any petition filed under subsection (j) may be served upon any person who is not found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over any such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by any such person that such court would have if such person were personally within the jurisdiction of such court.

(d) SERVICE UPON LEGAL ENTITIES AND NATURAL PERSONS.—

(1) LEGAL ENTITIES.—Service of any civil investigative demand issued under subsection (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity by—

(A) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(B) delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(C) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(2) NATURAL PERSONS.—Service of any such demand or petition may be made upon any natural person by—

(A) delivering an executed copy of such demand or petition to the person; or

(B) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(e) PROOF OF SERVICE.—A verified return by the individual serving any civil investigative demand issued under subsection (a) or any petition filed under subsection (j) setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(f) DOCUMENTARY MATERIAL.—

(1) SWORN CERTIFICATES.—The production of documentary material in response to a civil investigative demand served under this section shall be made under a sworn certificate, in such form as the demand designates, by—

(A) in the case of a natural person, the person to whom the demand is directed, or

(B) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand.

(2) PRODUCTION OF MATERIALS.—Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (j)(1). Such material shall be made so available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

(g) INTERROGATORIES.—Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by—

(1) in the case of a natural person, the person to whom the demand is directed, or

(2) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(h) ORAL EXAMINATIONS.—

(1) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Federal Rules of Civil Procedure.

(2) PERSONS PRESENT.—The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the Government, any person who may be agreed upon by the attorney for the Government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(3) WHERE TESTIMONY TAKEN.—The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

(4) TRANSCRIPT OF TESTIMONY.—When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable oppor-

tunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.

(5) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(6) FURNISHING OR INSPECTION OF TRANSCRIPT BY WITNESS.—Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness' testimony.

(7) CONDUCT OF ORAL TESTIMONY.—(A) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (a) may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the United States under subsection (j)(1) for an order compelling such person to answer such question.

(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18.

(8) WITNESS FEES AND ALLOWANCES.—Any person appearing for oral testimony under a civil investigative demand issued under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the United States.

(i) CUSTODIANS OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS.—

(1) DESIGNATION.—The Attorney General shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional false claims law investigators as the Attorney General determines from time to time to be necessary to serve as deputies to the custodian.

(2) RESPONSIBILITY FOR MATERIALS; DISCLOSURE.—(A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (4).

(B) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or other officer or employee of the Department of Justice, who is authorized for such use under regulations which the Attorney General shall issue. Such material, answers, and transcripts may be used by any such authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony under this section.

(C) Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than a false claims law investigator or other officer or employee of the Department of Justice authorized under subparagraph (B). The prohibition in the preceding sentence on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the Congress, including any committee or subcommittee of the Congress, or to any other agency of the United States for use by such agency in furtherance of its statutory responsibilities. Disclosure of information to any such other agency shall be allowed only upon application, made by the Attorney General to a United States district court, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities.

(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe—

(i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and

(ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

(3) USE OF MATERIAL, ANSWERS, OR TRANSCRIPTS IN OTHER PROCEEDINGS.—Whenever any attorney of the Department of Justice has

been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

(4) CONDITIONS FOR RETURN OF MATERIAL.—If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this section, and—

(A) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any Federal agency involving such material, has been completed, or

(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation,

the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the false claims law investigator under subsection (f)(2) or made for the Department of Justice under paragraph (2)(B)) which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

(5) APPOINTMENT OF SUCCESSOR CUSTODIANS.—In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General shall promptly—

(A) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts, and

(B) transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.

Any person who is designated to be a successor under this paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.

(j) JUDICIAL PROCEEDINGS.—

(1) PETITION FOR ENFORCEMENT.—Whenever any person fails to comply with any civil investigative demand issued under subsection (a), or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

(2) PETITION TO MODIFY OR SET ASIDE DEMAND.—(A) Any person who has received a civil investigative demand issued under subsection (a) may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph must be filed—

(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(3) PETITION TO MODIFY OR SET ASIDE DEMAND FOR PRODUCT OF DISCOVERY.—(A) In the case of any civil investigative demand issued under subsection (a) which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any false claims law investigator identified in the demand and upon the recipient of the demand, a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph must be filed—

(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

(4) PETITION TO REQUIRE PERFORMANCE BY CUSTODIAN OF DUTIES.—At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (a), such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

(5) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of the court.

(6) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—The Federal Rules of Civil Procedure shall apply to any petition under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

(k) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a) shall be exempt from disclosure under section 552 of title 5.

(*l*) DEFINITIONS.—For purposes of this section—

(1) the term ''false claims law'' means—

(A) this section and sections 3729 through 3732; and

(B) any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to, any false claim against, bribery of, or corruption of any officer or employee of the United States;

(2) the term ''false claims law investigation'' means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law;

(3) the term ''false claims law investigator'' means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the United States acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation;

(4) the term ''person'' means any natural person, partnership, corporation, association, or other legal entity, including any State or political subdivision of a State;

(5) the term ''documentary material'' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;

(6) the term ''custodian'' means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i)(1); and

(7) the term ''product of discovery'' includes—

(A) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(C) any index or other manner of access to any item listed in subparagraph (A).

(Added Pub. L. 99–562, § 6(a), Oct. 27, 1986, 100 Stat. 3159.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsecs. (b)(1)(B), (c)(2), (h)(1), and (j)(6), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The date of enactment of this section, referred to in subsec. (*l*)(1)(B), is the date of enactment of Pub. L. 99–562, which was approved Oct. 27, 1986.

CHAPTER 38—ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

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AMENDMENTS

1995—Pub. L. 104–66, title III, § 3001(c)(2), Dec. 21, 1995, 109 Stat. 734, struck out item 3810 ''Reports''.

§ 3801. Definitions

(a) For purposes of this chapter—

(1) ''authority'' means—

(A) an executive department;

(B) a military department;

(C) an establishment (as such term is defined in section 11(2) of the Inspector General Act of 1978) which is not an executive department;

(D) the United States Postal Service;

(E) the National Science Foundation; and

(F) a designated Federal entity (as such term is defined under section 8G(a)(2) of the Inspector General Act of 1978);

(2) ''authority head'' means—

(A) the head of an authority; or

(B) an official or employee of the authority designated, in regulations promulgated by the head of the authority, to act on behalf of the head of the authority;

(3) ''claim'' means any request, demand, or submission—

(A) made to an authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(B) made to a recipient of property, services, or money from an authority or to a party to a contract with an authority—

(i) for property or services if the United States—

(I) provided such property or services;

(II) provided any portion of the funds for the purchase of such property or services; or

(III) will reimburse such recipient or party for the purchase of such property or services; or

(ii) for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(I) provided any portion of the money requested or demanded; or

(II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(C) made to an authority which has the effect of decreasing an obligation to pay or account for property, services, or money,

except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1986;

(4) ''investigating official'' means an individual who—

(A)(i) in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, is the Inspector General of that authority or an officer or employee of such Office designated by the Inspector General;

(ii) in the case of an authority in which an Office of Inspector General is not established by the Inspector General Act of 1978 or by any other Federal law, is an officer or employee of the authority designated by the authority head to conduct investigations under section 3803(a)(1) of this title; or

(iii) in the case of a military department, is the Inspector General of the Department of Defense or an officer or employee of the Office of Inspector General of the Department of Defense who is designated by the Inspector General; and

(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O–7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule;

(5) ''knows or has reason to know'', for purposes of establishing liability under section 3802, means that a person, with respect to a claim or statement—

(A) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(B) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(C) acts in reckless disregard of the truth or falsity of the claim or statement,

and no proof of specific intent to defraud is required;

(6) ''person'' means any individual, partnership, corporation, association, or private organization;

(7) ''presiding officer'' means—

(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, an administrative law judge appointed in the authority pursuant to section 3105 of such title or detailed to the authority pursuant to section 3344 of such title; or

(B) in the case of an authority to which the provisions of such subchapter do not apply, an officer or employee of the authority who—

(i) is selected under chapter 33 of title 5 pursuant to the competitive examination process applicable to administrative law judges;

(ii) is appointed by the authority head to conduct hearings under section 3803 of this title;

(iii) is assigned to cases in rotation so far as practicable;

(iv) may not perform duties inconsistent with the duties and responsibilities of a presiding officer;

(v) is entitled to pay prescribed by the Office of Personnel Management independently of ratings and recommendations made by the authority and in accordance with chapter 51 of such title and subchapter III of chapter 53 of such title;

(vi) is not subject to performance appraisal pursuant to chapter 43 of such title; and

(vii) may be removed, suspended, furloughed, or reduced in grade or pay only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing by such Board;

(8) ''reviewing official'' means any officer or employee of an authority—

(A) who is designated by the authority head to make the determination required under section 3803(a)(2) of this title;

(B) who, if a member of the Armed Forces of the United States on active duty, is serv-

ing in grade O–7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule; and

(C) who is—

(i) not subject to supervision by, or required to report to, the investigating official; and

(ii) not employed in the organizational unit of the authority in which the investigating official is employed; and

(9) ''statement'' means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(A) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(B) with respect to (including relating to eligibility for)—

(i) a contract with, or a bid or proposal for a contract with; or

(ii) a grant, loan, or benefit from,

an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit,

except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1986.

(b) For purposes of paragraph (3) of subsection (a)—

(1) each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim;

(2) each claim for property, services, or money is subject to this chapter regardless of whether such property, services, or money is actually delivered or paid; and

(3) a claim shall be considered made, presented, or submitted to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

(c) For purposes of paragraph (9) of subsection (a)—

(1) each written representation, certification, or affirmation constitutes a separate statement; and

(2) a statement shall be considered made, presented, or submitted to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1934; amended Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–272, § 4(f)(1)(Q), July 5, 1994, 108 Stat. 1362; Pub. L. 110–69, title VII, § 7017, Aug. 9, 2007, 121 Stat. 684; Pub. L. 110–409, § 10, Oct. 14, 2008, 122 Stat. 4314.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a)(1)(C), (F), (4)(A), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Internal Revenue Code of 1986, referred to in subsec. (a)(3), (9), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2008—Subsec. (a)(1)(F). Pub. L. 110–409 added subpar. (F).

2007—Subsec. (a)(1)(E). Pub. L. 110–69 added subpar. (E).

1994—Subsec. (a)(7)(B)(ii). Pub. L. 103–272 substituted ''section 3803 of this title'' for ''section 3803 of such title''.

1986—Subsec. (a)(3), (9). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

EFFECTIVE DATE

Section 6104 of subtitle B (§§ 6101–6104) of title VI of Pub. L. 99–509 provided that: ''This subtitle and the amendments made by this subtitle [see Short Title note below] shall take effect on the date of enactment of this Act [Oct. 21, 1986], and shall apply to any claim or statement made, presented, or submitted on or after such date.''

SHORT TITLE

Section 6101 of subtitle B (§§ 6101–6104) of title VI of Pub. L. 99–509 provided that: ''This subtitle [enacting this chapter, amending section 504 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section] may be cited as the 'Program Fraud Civil Remedies Act of 1986'.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

CONGRESSIONAL FINDINGS AND PURPOSES

Section 6102 of subtitle B (§§ 6101–6104) of title VI of Pub. L. 99–509 provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) false, fictitious, and fraudulent claims and statements in Government programs are a serious problem;

''(2) false, fictitious, and fraudulent claims and statements in Government programs result in the loss of millions of dollars annually by allowing persons to receive Federal funds to which they are not entitled;

''(3) false, fictitious, and fraudulent claims and statements in Government programs undermine the integrity of such programs by allowing ineligible persons to participate in such programs; and

''(4) present civil and criminal remedies for such claims and statements are not sufficiently responsive.

''(b) PURPOSES.—The purposes of this subtitle [see Short Title note above] are—

''(1) to provide Federal agencies which are the victims of false, fictitious, and fraudulent claims and statements with an administrative remedy to recompense such agencies for losses resulting from such claims and statements, to permit administrative proceedings to be brought against persons who make, present, or submit such claims and statements, and to deter the making, presenting, and submitting of such claims and statements in the future; and

''(2) to provide due process protections to all persons who are subject to the administrative adjudication of false, fictitious, or fraudulent claims or statements.''

§ 3802. False claims and statements; liability

(a)(1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know—

(A) is false, fictitious, or fraudulent;

(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(C) includes or is supported by any written statement that—

(i) omits a material fact;

(ii) is false, fictitious, or fraudulent as a result of such omission; and

(iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or

(D) is for payment for the provision of property or services which the person has not provided as claimed,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence.

(2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that—

(A) the person knows or has reason to know—

(i) asserts a material fact which is false, fictitious, or fraudulent; or

(ii)(I) omits a material fact; and

(II) is false, fictitious, or fraudulent as a result of such omission;

(B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and

(C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each such statement.

(3) An assessment shall not be made under the second sentence of paragraph (1) with respect to a claim if payment by the Government has not been made on such claim.

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection—

(A) a determination under section 3803(a)(2) of this title that there is adequate evidence to believe that a person is liable under subsection (a) of this section; or

(B) a determination under section 3803 of this title that a person is liable under subsection (a) of this section,

may provide the authority with grounds for commencing any administrative or contractual action against such person which is authorized by law and which is in addition to any action against such person under this chapter.

(2) A determination referred to in paragraph (1) of this subsection may be used by the authority, but shall not require such authority, to commence any administrative or contractual action which is authorized by law.

(3) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, a determination referred to in paragraph (1) of this subsection shall not be considered as a conclusive determination of such person's responsibility pursuant to Federal procurement laws and regulations.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1937.)

§ 3803. Hearing and determinations

(a)(1) The investigating official of an authority may investigate allegations that a person is liable under section 3802 of this title and shall report the findings and conclusions of such investigation to the reviewing official of the authority. The preceding sentence does not modify any responsibility of an investigating official to report violations of criminal law to the Attorney General.

(2) If the reviewing official of an authority determines, based upon the report of the investigating official under paragraph (1) of this subsection, that there is adequate evidence to believe that a person is liable under section 3802 of this title, the reviewing official shall transmit to the Attorney General a written notice of the intention of such official to refer the allegations of such liability to a presiding officer of such authority. Such notice shall include—

(A) a statement of the reasons of the reviewing official for the referral of such allegations;

(B) a statement specifying the evidence which supports such allegations;

(C) a description of the claims or statements for which liability under section 3802 of this title is alleged;

(D) an estimate of the amount of money or the value of property or services requested or demanded in violation of section 3802 of this title; and

(E) a statement of any exculpatory or mitigating circumstances which may relate to such claims or statements.

(b)(1) Within 90 days after receipt of a notice from a reviewing official under paragraph (2) of subsection (a), the Attorney General or an Assistant Attorney General designated by the Attorney General shall transmit a written statement to the reviewing official which specifies—

(A) that the Attorney General or such Assistant Attorney General approves or disapproves the referral to a presiding officer of the allegations of liability stated in such notice;

(B) in any case in which the referral of allegations is approved, that the initiation of a proceeding under this section with respect to such allegations is appropriate; and

(C) in any case in which the referral of allegations is disapproved, the reasons for such disapproval.

(2) A reviewing official may refer allegations of liability to a presiding officer only if the Attorney General or an Assistant Attorney General designated by the Attorney General approves the referral of such allegations in a written statement described in paragraph (1) of this subsection.

(3) If the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to an authority head a written finding that the continuation of any hearing under this section with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, such hearing shall be immediately stayed and may be resumed only upon written authorization of the Attorney General.

(c)(1) No allegations of liability under section 3802 of this title with respect to any claim made, presented, or submitted by any person shall be referred to a presiding officer under paragraph (2) of subsection (b) if the reviewing official determines that—

(A) an amount of money in excess of $150,000; or

(B) property or services with a value in excess of $150,000,

is requested or demanded in violation of section 3802 of this title in such claim or in a group of related claims which are submitted at the time such claim is submitted.

(2)(A) Except as provided in subparagraph (B) of this paragraph, no allegations of liability against an individual under section 3802 of this title with respect to any claim or statement made, presented, or submitted, or caused to be made, presented, or submitted, by such individual relating to any benefits received by such individual shall be referred to a presiding officer under paragraph (2) of subsection (b).

(B) Allegations of liability against an individual under section 3802 of this title with respect to any claim or statement made, presented, or submitted, or caused to be made, presented, or submitted, by such individual relating to any benefits received by such individual may be referred to a presiding officer under paragraph (2) of subsection (b) if—

(i) such claim or statement is made by such individual in making application for such benefits;

(ii) such allegations relate to the eligibility of such individual to receive such benefits; and

(iii) with respect to such claim or statement, the individual—

(I) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(II) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(III) acts in reckless disregard of the truth or falsity of the claim or statement.

(C) For purposes of this subsection, the term ''benefits'' means—

(i) benefits under the supplemental security income program under title XVI of the Social Security Act;

(ii) old age, survivors, and disability insurance benefits under title II of the Social Security Act;

(iii) benefits under title XVIII of the Social Security Act;

(iv) assistance under a State program funded under part A of title IV of the Social Security Act;

(v) medical assistance under a State plan approved under section 1902(a) of the Social Security Act;

(vi) benefits under title XX of the Social Security Act;

(vii) benefits under the supplemental nutrition assistance program (as defined in section 3(*l*) of the Food and Nutrition Act of 2008);

(viii) benefits under chapters 11, 13, 15, 17, and 21 of title 38;

(ix) benefits under the Black Lung Benefits Act;

(x) benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966;

(xi) benefits under section 336 of the Older Americans Act;

(xii) any annuity or other benefit under the Railroad Retirement Act of 1974;

(xiii) benefits under the Richard B. Russell National School Lunch Act;

(xiv) benefits under any housing assistance program for lower income families or elderly or handicapped persons which is administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture;

(xv) benefits under the Low-Income Home Energy Assistance Act of 1981; and

(xvi) benefits under part A of the Energy Conservation in Existing Buildings Act of 1976,

which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

(d)(1) On or after the date on which a reviewing official is permitted to refer allegations of liability to a presiding officer under subsection (b) of this section, the reviewing official shall mail, by registered or certified mail, or shall deliver, a notice to the person alleged to be liable under section 3802 of this title. Such notice shall specify the allegations of liability against such person and shall state the right of such person to request a hearing with respect to such allegations.

(2) If, within 30 days after receiving a notice under paragraph (1) of this subsection, the person receiving such notice requests a hearing with respect to the allegations contained in such notice—

(A) the reviewing official shall refer such allegations to a presiding officer for the commencement of such hearing; and

(B) the presiding officer shall commence such hearing by mailing by registered or certified mail, or by delivery of, a notice which complies with paragraphs (2)(A) and (3)(B)(i) of subsection (g) to such person.

(e)(1)(A) Except as provided in subparagraph (B) of this paragraph, at any time after receiv-

ing a notice under paragraph (2)(B) of subsection (d), the person receiving such notice shall be entitled to review, and upon payment of a reasonable fee for duplication, shall be entitled to obtain a copy of, all relevant and material documents, transcripts, records, and other materials, which relate to such allegations and upon which the findings and conclusions of the investigating official under paragraph (1) of subsection (a) are based.

(B) A person is not entitled under subparagraph (A) to review and obtain a copy of any document, transcript, record, or material which is privileged under Federal law.

(2) At any time after receiving a notice under paragraph (2)(B) of subsection (d), the person receiving such notice shall be entitled to obtain all exculpatory information in the possession of the investigating official or the reviewing official relating to the allegations contained in such notice. The provisions of subparagraph (B) of paragraph (1) do not apply to any document, transcript, record, or other material, or any portion thereof, in which such exculpatory information is contained.

(f) Any hearing commenced under paragraph (2) of subsection (d) shall be conducted by the presiding officer on the record in order to determine—

(1) the liability of a person under section 3802 of this title; and

(2) if a person is determined to be liable under such section, the amount of any civil penalty or assessment to be imposed on such person.

Any such determination shall be based on the preponderance of the evidence.

(g)(1) Each hearing under subsection (f) of this section shall be conducted—

(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, in accordance with—

(i) the provisions of such subchapter to the extent that such provisions are not inconsistent with the provisions of this chapter; and

(ii) procedures promulgated by the authority head under paragraph (3) of this subsection; or

(B) in the case of an authority to which the provisions of such subchapter do not apply, in accordance with procedures promulgated by the authority head under paragraphs (2) and (3) of this subsection.

(2) An authority head of an authority described in subparagraph (B) of paragraph (1) shall by regulation promulgate procedures for the conduct of hearings under this chapter. Such procedures shall include:

(A) The provision of written notice of the hearing to any person alleged to be liable under section 3802 of this title, including written notice of—

(i) the time, place, and nature of the hearing;

(ii) the legal authority and jurisdiction under which the hearing is to be held; and

(iii) the matters of facts and law to be asserted.

(B) The provision to any person alleged to be liable under section 3802 of this title of opportunities for the submission of facts, arguments, offers of settlement, or proposals of adjustment.

(C) Procedures to ensure that the presiding officer shall not, except to the extent required for the disposition of ex parte matters as authorized by law—

(i) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to the hearing to participate; or

(ii) be responsible to or subject to the supervision or direction of the investigating official or the reviewing official.

(D) Procedures to ensure that the investigating official and the reviewing official do not participate or advise in the decision required under subsection (h) of this section or the review of the decision by the authority head under subsection (i) of this section, except as provided in subsection (j) of this section.

(E) The provision to any person alleged to be liable under section 3802 of this title of opportunities to present such person's case through oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(F) Procedures to permit any person alleged to be liable under section 3802 of this title to be accompanied, represented, and advised by counsel or such other qualified representative as the authority head may specify in such regulations.

(G) Procedures to ensure that the hearing is conducted in an impartial manner, including procedures to—

(i) permit the presiding officer to at any time disqualify himself; and

(ii) permit the filing, in good faith, of a timely and sufficient affidavit alleging personal bias or another reason for disqualification of a presiding officer or a reviewing official.

(3)(A) Each authority head shall promulgate by regulation procedures described in subparagraph (B) of this paragraph for the conduct of hearings under this chapter. Such procedures shall be in addition to the procedures described in paragraph (1) or paragraph (2) of this subsection, as the case may be.

(B) The procedures referred to in subparagraph (A) of this paragraph are:

(i) Procedures for the inclusion, in any written notice of a hearing under this section to any person alleged to be liable under section 3802 of this title, of a description of the procedures for the conduct of the hearing.

(ii) Procedures to permit discovery by any person alleged to be liable under section 3802 of this title only to the extent that the presiding officer determines that such discovery is necessary for the expeditious, fair, and reasonable consideration of the issues, except that such procedures shall not apply to documents, transcripts, records, or other material which a person is entitled to review under paragraph (1) of subsection (e) or to information to which a person is entitled under paragraph (2) of such subsection. Procedures promulgated under this clause shall prohibit the discovery of the

notice required under subsection (a)(2) of this section.

(4) Each hearing under subsection (f) of this section shall be held—

(A) in the judicial district of the United States in which the person alleged to be liable under section 3802 of this title resides or transacts business;

(B) in the judicial district of the United States in which the claim or statement upon which the allegation of liability under such section was made, presented, or submitted; or

(C) in such other place as may be agreed upon by such person and the presiding officer who will conduct such hearing.

(h) The presiding officer shall issue a written decision, including findings and determinations, after the conclusion of the hearing. Such decision shall include the findings of fact and conclusions of law which the presiding officer relied upon in determining whether a person is liable under this chapter. The presiding officer shall promptly send to each party to the hearing a copy of such decision and a statement describing the right of any person determined to be liable under section 3802 of this title to appeal the decision of the presiding officer to the authority head under paragraph (2) of subsection (i).

(i)(1) Except as provided in paragraph (2) of this subsection and section 3805 of this title, the decision, including the findings and determinations, of the presiding officer issued under subsection (h) of this section are final.

(2)(A)(i) Except as provided in clause (ii) of this subparagraph, within 30 days after the presiding officer issues a decision under subsection (h) of this section, any person determined in such decision to be liable under section 3802 of this title may appeal such decision to the authority head.

(ii) If, within the 30-day period described in clause (i) of this subparagraph, a person determined to be liable under this chapter requests the authority head for an extension of such 30-day period to file an appeal of a decision issued by the presiding officer under subsection (h) of this section, the authority head may extend such period if such person demonstrates good cause for such extension.

(B) Any authority head reviewing under this section the decision, findings, and determinations of a presiding officer shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (f) of this section unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the presiding officer for consideration of such additional evidence.

(C) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the presiding officer pursuant to this section. The authority head shall promptly send to each party to the appeal a copy of the decision of the authority head and a statement describing the right of any person determined to be liable under section 3802 of this title to judicial review under section 3805 of this title.

(j) The reviewing official has the exclusive authority to compromise or settle any allegations of liability under section 3802 of this title against a person without the consent of the presiding officer at any time after the date on which the reviewing official is permitted to refer allegations of liability to a presiding officer under subsection (b) of this section and prior to the date on which the presiding officer issues a decision under subsection (h) of this section. Any such compromise or settlement shall be in writing.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1939; amended Pub. L. 103–448, title II, § 204(w)(2)(C), Nov. 2, 1994, 108 Stat. 4746; Pub. L. 104–193, title I, § 110(*o*), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 106–78, title VII, § 752(b)(13), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110–234, title IV, §§ 4002(b)(1)(A), (B), (2)(S), 4115(c)(2)(E), May 22, 2008, 122 Stat. 1095–1097, 1110; Pub. L. 110–246, § 4(a), title IV, §§ 4002(b)(1)(A), (B), (2)(S), 4115(c)(2)(E), June 18, 2008, 122 Stat. 1664, 1857, 1858, 1871.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(2)(C)(i) to (vi), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II, XVI, XVIII, and XX of the Act are classified generally to subchapters II (§ 401 et seq.), XVI (§ 1381 et seq.), XVIII (§ 1395 et seq.), and XX (§ 1397 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42. Section 1902(a) of the Act is classified to section 1396a(a) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 3(*l*) of the Food and Nutrition Act of 2008, referred to in subsec. (c)(2)(C)(vii), is classified to section 2012(*l*) of Title 7, Agriculture.

The Black Lung Benefits Act, referred to in subsec. (c)(2)(C)(ix), is title IV of Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 792, as amended, which is classified generally to subchapter IV (§ 901 et seq.) of chapter 22 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see section 901(b) of Title 30 and Tables.

Section 17 of the Child Nutrition Act of 1966, referred to in subsec. (c)(2)(C)(x), is classified to section 1786 of Title 42, The Public Health and Welfare.

Section 336 of the Older Americans Act, referred to in subsec. (c)(2)(C)(xi), probably means section 336 of the Older Americans Act of 1965, which is classified to section 3030f of Title 42.

The Railroad Retirement Act of 1974, referred to in subsec. (c)(2)(C)(xii), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93–445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of Title 45, Railroads. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(2)(C)(xiii), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Low-Income Home Energy Assistance Act of 1981, referred to in subsec. (c)(2)(C)(xv), is title XXVI of Pub.

L. 97–35, Aug. 13, 1981, 95 Stat. 893, as amended, which is classified generally to subchapter II (§ 8621 et seq.) of chapter 94 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 8621 of Title 42 and Tables.

The Energy Conservation in Existing Buildings Act of 1976, referred to in subsec. (c)(2)(C)(xvi), is title IV of Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1150, as amended. Part A of the Energy Conservation in Existing Buildings Act of 1976 is classified generally to Part A (§ 6861 et seq.) of subchapter III of chapter 81 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of Title 42 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (c)(2)(C)(vii). Pub. L. 110–246, § 4115(c)(2)(E), substituted ''section 3(*l*)'' for ''section 3(h)''.

Pub. L. 110–246, § 4002(b)(1)(A), (B), (2)(S), substituted ''supplemental nutrition assistance program'' for ''food stamp program'' and ''Food and Nutrition Act of 2008'' for ''Food Stamp Act of 1977''.

1999—Subsec. (c)(2)(C)(xiii). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

1996—Subsec. (c)(2)(C)(iv). Pub. L. 104–193 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: ''aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act;''.

1994—Subsec. (c)(2)(C)(x). Pub. L. 103–448 substituted ''special supplemental nutrition program'' for ''special supplemental food program''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4002(b)(1)(A), (B), (2)(S), and 4115(c)(2)(E) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of Title 42, The Public Health and Welfare.

§ 3804. Subpoena authority

(a) For the purposes of an investigation under section 3803(a)(1) of this title, an investigating official is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and data not otherwise reasonably available to the authority.

(b) For the purposes of conducting a hearing under section 3803(f) of this title, a presiding officer is authorized—

(1) to administer oaths or affirmations; and

(2) to require by subpoena the attendance and testimony of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the presiding officer considers relevant and material to the hearing.

(c) In the case of contumacy or refusal to obey a subpoena issued pursuant to subsection (a) or (b) of this section, the district courts of the United States shall have jurisdiction to issue an appropriate order for the enforcement of any such subpoena. Any failure to obey such order of the court is punishable by such court as contempt. In any case in which an authority seeks the enforcement of a subpoena issued pursuant to subsection (a) or (b) of this section, the authority shall request the Attorney General to petition any district court in which a hearing under this chapter is being conducted, or in which the person receiving the subpoena resides or conducts business, to issue such an order.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1944.)

§ 3805. Judicial review

(a)(1) A determination by a reviewing official under section 3803 of this title shall be final and shall not be subject to judicial review.

(2) Unless a petition is filed under this section, a determination under section 3803 of this title that a person is liable under section 3802 of this title shall be final and shall not be subject to judicial review.

(b)(1)(A) Any person who has been determined to be liable under section 3802 of this title pursuant to section 3803 of this title may obtain review of such determination in—

(i) the United States district court for the district in which such person resides or transacts business;

(ii) the United States district court for the district in which the claim or statement upon which the determination of liability is based was made, presented, or submitted; or

(iii) the United States District Court for the District of Columbia.

(B) Such review may be obtained by filing in any such court a written petition that such determination be modified or set aside. Such petition shall be filed—

(i) only after such person has exhausted all administrative remedies under this chapter; and

(ii) within 60 days after the date on which the authority head sends such person a copy of the decision of such authority head under section 3803(i)(2) of this title.

(2) The clerk of the court shall transmit a copy of a petition filed under paragraph (1) of this subsection to the authority and to the Attorney General. Upon receipt of the copy of such

petition, the authority shall transmit to the Attorney General the record in the proceeding resulting in the determination of liability under section 3802 of this title. Except as otherwise provided in this section, the district courts of the United States shall have jurisdiction to review the decision, findings, and determinations in issue and to affirm, modify, remand for further consideration, or set aside, in whole or in part, the decision, findings, and determinations of the authority, and to enforce such decision, findings, and determinations to the extent that such decision, findings, and determinations are affirmed or modified.

(c) The decisions, findings, and determinations of the authority with respect to questions of fact shall be final and conclusive, and shall not be set aside unless such decisions, findings, and determinations are found by the court to be unsupported by substantial evidence. In concluding whether the decisions, findings, and determinations of an authority are unsupported by substantial evidence, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(d) Any district court reviewing under this section the decision, findings, and determinations of an authority shall not consider any objection that was not raised in the hearing conducted pursuant to section 3803(f) of this title unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the court shall remand the matter to the authority for consideration of such additional evidence.

(e) Upon a final determination by the district court that a person is liable under section 3802 of this title, the court shall enter a final judgment for the appropriate amount in favor of the United States.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1944.)

§ 3806. Collection of civil penalties and assessments

(a) The Attorney General shall be responsible for judicial enforcement of any civil penalty or assessment imposed pursuant to the provisions of this chapter.

(b) Any penalty or assessment imposed in a determination which has become final pursuant to this chapter may be recovered in a civil action brought by the Attorney General. In any such action, no matter that was raised or that could have been raised in a hearing conducted under section 3803(f) of this title or pursuant to judicial review under section 3805 of this title may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

(c) The district courts of the United States shall have jurisdiction of any action commenced by the United States under subsection (b) of this section.

(d) Any action under subsection (b) of this section may, without regard to venue requirements, be joined and consolidated with or asserted as a counterclaim, cross-claim, or setoff by the United States in any other civil action which includes as parties the United States and the person against whom such action may be brought.

(e) The United States Court of Federal Claims shall have jurisdiction of any action under subsection (b) of this section to recover any penalty or assessment if the cause of action is asserted by the United States as a counterclaim in a matter pending in such court.

(f) The Attorney General shall have exclusive authority to compromise or settle any penalty or assessment the determination of which is the subject of a pending petition pursuant to section 3805 of this title or a pending action to recover such penalty or assessment pursuant to this section.

(g)(1) Except as provided in paragraph (2) of this subsection, any amount of penalty or assessment collected under this chapter shall be deposited as miscellaneous receipts in the Treasury of the United States.

(2)(A) Any amount of a penalty or assessment imposed by the United States Postal Service under this chapter shall be deposited in the Postal Service Fund established by section 2003 of title 39.

(B) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with old age and survivors benefits under title II of the Social Security Act shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund.

(C) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with disability benefits under title II of the Social Security Act shall be deposited in the Federal Disability Insurance Trust Fund.

(D) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with benefits under part A of title XVIII of the Social Security Act shall be deposited in the Federal Hospital Insurance Trust Fund.

(E) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with benefits under part B of title XVIII of the Social Security Act shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1945; amended Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (g)(2)(B) to (E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II and parts A and B of title XVIII of the Social Security Act are classified generally to subchapter II (§ 401 et seq.) and parts A (§ 1395c et seq.) and B (§ 1395j et seq.) of subchapter XVIII, respectively, of

chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 3807. Right to administrative offset

(a) The amount of any penalty or assessment which has become final under section 3803 of this title, or for which a judgment has been entered under section 3805(e) or 3806 of this title, or any amount agreed upon in a settlement or compromise under section 3803(j) or 3806(f) of this title, may be collected by administrative offset under section 3716 of this title, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the person liable for such penalty or assessment.

(b) All amounts collected pursuant to this section shall be remitted to the Secretary of the Treasury for deposit in accordance with section 3806(g) of this title.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1947.)

§ 3808. Limitations

(a) A hearing under section 3803(d)(2) of this title with respect to a claim or statement shall be commenced within 6 years after the date on which such claim or statement is made, presented, or submitted.

(b) A civil action to recover a penalty or assessment under section 3806 of this title shall be commenced within 3 years after the date on which the determination of liability for such penalty or assessment becomes final.

(c) If at any time during the course of proceedings brought pursuant to this chapter the authority head receives or discovers any specific information regarding bribery, gratuities, conflict of interest, or other corruption or similar activity in relation to a false claim or statement, the authority head shall immediately report such information to the Attorney General, and in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, to the Inspector General of that authority.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1947.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (c), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3809. Regulations

Within 180 days after the date of enactment of this chapter, each authority head shall promulgate rules and regulations necessary to implement the provisions of this chapter. Such rules and regulations shall—

(1) ensure that investigating officials and reviewing officials are not responsible for conducting the hearing required in section 3803(f) of this title, making the determinations required by subsections (f) and (h) of section 3803 of this title, or making collections under section 3806 of this title; and

(2) require a reviewing official to include in any notice required by section 3803(a)(2) of this title a statement which specifies that the reviewing official has determined that there is a reasonable prospect of collecting, from a person with respect to whom the reviewing official is referring allegations of liability in such notice, the amount for which such person may be liable.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1947.)

REFERENCES IN TEXT

The date of enactment of this chapter, referred to in text, means the date of enactment of Pub. L. 99–509 which was approved Oct. 21, 1986.

[§ 3810. Repealed. Pub. L. 104–66, title III, § 3001(c)(1), Dec. 21, 1995, 109 Stat. 734]

Section, added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1947, required annual reports to Congress.

§ 3811. Effect on other law

(a) This chapter does not diminish the responsibility of any agency to comply with the provisions of chapter 35 of title 44.

(b) This chapter does not supersede the provisions of section 3512 of title 44.

(c) For purposes of this section, the term ''agency'' has the same meaning as in section 3502(1) of title 44.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1948.)

§ 3812. Prohibition against delegation

Any function, duty, or responsibility which this chapter specifies be carried out by the Attorney General or an Assistant Attorney General designated by the Attorney General, shall not be delegated to, or carried out by, any other officer or employee of the Department of Justice.

(Added Pub. L. 99–509, title VI, § 6103(a), Oct. 21, 1986, 100 Stat. 1948.)

CHAPTER 39—PROMPT PAYMENT

Sec.
3901. Definitions and application.
3902. Interest penalties.
3903. Regulations.
3904. Limitations on discount payments.
3905. Payment provisions relating to construction contracts.
[3906. Repealed.]
3907. Relationship to other laws.

AMENDMENTS

1998—Pub. L. 105–362, title XIII, § 1301(c)(2)(C), Nov. 10, 1998, 112 Stat. 3293, struck out item 3906 ''Reports''.

1988—Pub. L. 100–496, § 9(b), Oct. 17, 1988, 102 Stat. 2463, added item 3905 and redesignated former items 3905 and 3906 as 3906 and 3907, respectively.

§ 3901. Definitions and application

(a) In this chapter—

(1) ''agency'' has the same meaning given that term in section 551(1) of title 5 and includes an entity being operated, and the head of the agency identifies the entity as being operated, only as an instrumentality of the agency to carry out a program of the agency.

(2) ''business concern'' means—

(A) a person carrying on a trade or business; and

(B) a nonprofit entity operating as a contractor.

(3) ''proper invoice'' is an invoice containing or accompanied by substantiating documentation the Director of the Office of Management and Budget may require by regulation and the head of the appropriate agency may require by regulation or contract.

(4) for the purposes of determining a payment due date and the date upon which any late payment interest penalty shall begin to accrue, the head of the agency is deemed to receive an invoice—

(A) on the later of—

(i) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

(ii) on the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or performance of the services is actually completed, as the case may be, unless—

(I) the agency has actually accepted such property or services before such 7th day; or

(II) the contract (except in the case of a contract for the procurement of a brand-name commercial item for authorized resale) specifies a longer acceptance period, as determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed; or

(B) on the date of the invoice, if the agency has failed to annotate the invoice with the date of receipt at the time of actual receipt by the place or person designated by the agency to first receive such invoice.

(5) a payment is deemed to be made on the date a check for payment is dated or an electronic fund transfer is made.

(6) a contract to rent property is deemed to be a contract to acquire the property.

(b) This chapter applies to the Tennessee Valley Authority. However, regulations prescribed under this chapter do not apply to the Authority, and the Authority alone is responsible for carrying out this chapter as it applies to contracts of the Authority.

(c) This chapter applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.

(d)(1) Notwithstanding subsection (a)(1) of this section, this chapter, except section 3907 of this title, applies to the District of Columbia Courts.

(2) A claim for an interest penalty not paid under this chapter may be filed in the same manner as claims are filed with respect to contracts to provide property or services for the District of Columbia Courts.

(3)(A) Except as provided in subparagraph (B), an interest penalty under this chapter does not continue to accrue for more than one year or after a claim for an interest penalty is filed in the manner described in paragraph (2), whichever is earlier.

(B) If a claim for an interest penalty is filed in the manner described in paragraph (2) and interest is not available for such claims under the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts, interest will accrue under this chapter as provided in paragraph (A) and from the date the claim is filed until the date the claim is paid.

(4) Paragraph (3) of this subsection does not prevent an interest penalty from accruing on a claim if such interest is available for such claim under the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts. Such interest may accrue on an unpaid contract payment and on the unpaid penalty under this chapter.

(5) Except as provided in section 3904 of this title, this chapter does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a business concern over the amount of payment or compliance with the contract. A claim related to the dispute, and any interest payable for the period during which the dispute is being resolved, is subject to the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts.

(Added Pub. L. 97–452, § 1(18)(A), Jan. 12, 1983, 96 Stat. 2474; amended Pub. L. 100–496, § 2(a)–(c)(1), Oct. 17, 1988, 102 Stat. 2455; Pub. L. 105–277, div. A, § 101(c) [title I, § 162(a)], Oct. 21, 1998, 112 Stat. 2681–121, 2681–148; Pub. L. 105–362, title XIII, § 1301(c)(2)(A), Nov. 10, 1998, 112 Stat. 3293.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3901(a)	31 App.:1805.	May 21, 1982, Pub. L. 97–177, §§ 6, 7(c), 96 Stat. 87, 88.
3901(b)	31 App.:1806.	

In the chapter, the words ''the head of'' are added for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the word ''Federal'' is omitted as unnecessary and for consistency in the revised title and with other titles of the Code. The words ''for this purpose'' are omitted because of the restatement. The words ''the purpose of'' and ''or more'' are omitted as surplus.

In subsection (a)(5), the words ''deemed to be'' are substituted for ''considered'' for consistency in the revised title and with other titles of the Code.

In subsection (a)(6), the words ''real or personal'' are omitted as surplus. The words ''deemed to be'' are added for consistency in the revised title and with other titles of the Code.

In subsection (b), the words ''the authority of'' are omitted as surplus.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–362 struck out '', except section 3906 of this title,'' after ''This chapter''.

Subsec. (d). Pub. L. 105–277 added subsec. (d).

1988—Subsec. (a)(4). Pub. L. 100–496, § 2(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''the head of an agency is deemed to receive an invoice on the later of the dates that—

''(A) the designated payment office or finance center of the agency actually receives a proper invoice; or

''(B) the head of the agency accepts the applicable property or service.''

Subsec. (a)(5). Pub. L. 100–496, § 2(b), amended par. (5) generally, substituting ''check for payment is dated or an electronic fund transfer is made'' for ''check for the payment is dated''.

Subsec. (c). Pub. L. 100–496, § 2(c)(1), added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2(a), (b) of Pub. L. 100–496 applicable to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after Oct. 17, 1988, and amendment by section 2(c)(1) of Pub. L. 100–496 applicable with respect to all obligations incurred on or after Jan. 1, 1989, see section 14(a), (c) of Pub. L. 100–496, set out as a note under section 3902 of this title.

SHORT TITLE OF 1988 AMENDMENT

Section 1 of Pub. L. 100–496 provided that: ''This Act [enacting section 3905 of this title, amending this section, sections 3902 to 3904 and 3906 of this title, section 644 of Title 15, Commerce and Trade, and section 410 of Title 39, Postal Service, renumbering sections 3905 and 3906 of this title as 3906 and 3907, respectively, enacting provisions set out as notes under sections 3902, 3903, and 3906 of this title, and repealing provisions set out as a note under section 3903 of this title] may be cited as the 'Prompt Payment Act Amendments of 1988'.''

§ 3902. Interest penalties

(a) Under regulations prescribed under section 3903 of this title, the head of an agency acquiring property or service from a business concern, who does not pay the concern for each complete delivered item of property or service by the required payment date, shall pay an interest penalty to the concern on the amount of the payment due. The interest shall be computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty.

(b) The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.

(c)(1) A business concern shall be entitled to an interest penalty of $1.00 or more which is owed such business concern under this section, and such penalty shall be paid without regard to whether the business concern has requested payment of such penalty.

(2) Each payment subject to this chapter for which a late payment interest penalty is required to be paid shall be accompanied by a notice stating the amount of the interest penalty included in such payment and the rate by which, and period for which, such penalty was computed.

(3) If a business concern—

(A) is owed an interest penalty by an agency;

(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due;

(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to an amount equal to the sum of the late payment interest penalty to which the contractor is entitled and an additional penalty equal to a percentage of such late payment interest penalty specified by regulation by the Director of the Office of Management and Budget, subject to such maximum as may be specified in such regulations.

(d) The temporary unavailability of funds to make a timely payment due for property or services does not relieve the head of an agency from the obligation to pay interest penalties under this section.

(e) An amount of an interest penalty unpaid after any 30-day period shall be added to the principal amount of the debt, and a penalty accrues thereafter on the added amount.

(f) This section does not authorize the appropriation of additional amounts to pay an interest penalty. The head of an agency shall pay a penalty under this section out of amounts made available to carry out the program for which the penalty is incurred.

(g) A recipient of a grant from the head of an agency may provide in a contract for the acquisition of property or service from a business concern that, consistent with the usual business practices of the recipient and applicable State and local law, the recipient will pay an interest penalty on amounts overdue under the contract under conditions agreed to by the recipient and the concern. The recipient may not pay the penalty from amounts received from an agency. Amounts expended for the penalty may not be counted toward a matching requirement applicable to the grant. An obligation to pay the penalty is not an obligation of the United States Government.

(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714b(h)).

(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made by the required payment or loan closing date. The interest penalty shall be paid—

(i) on the amount of payment or loan due; and

(ii) for the period beginning on the first day beginning after the required payment or loan closing date and ending on the date the amount is paid or loaned.

(B) As used in this subsection, the ''required payment or loan closing date'' means—

(i) for a purchase agreement, the 30th day after delivery of the warehouse receipt for the commodity subject to the purchase agreement;

(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;

(iii) for refund of amounts received greater than the amount required to repay a commodity loan, the first business day after the Commodity Credit Corporation receives payment for such loan;

(iv) for land diversion payments (other than advance payments), the 30th day beginning after the date of completion of the production adjustment contract by the producer;

(v) for an advance land diversion payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer;

(vi) for a deficiency payment (other than advance payments) based upon a 12-month or 5-month period, 91 days after the end of such period; or

(vii) for an advance deficiency payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer.

(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948 (15 U.S.C. 714f).

(4) Section 3907 of this title shall not apply to interest penalty payments made under this subsection.

(Added Pub. L. 97–452, §1(18)(A), Jan. 12, 1983, 96 Stat. 2475; amended Pub. L. 98–216, §1(6), Feb. 14, 1984, 98 Stat. 4; Pub. L. 100–496, §3, Oct. 17, 1988, 102 Stat. 2456; Pub. L. 105–362, title XIII, §1301(c)(2)(B), Nov. 10, 1998, 112 Stat. 3293.)

HISTORICAL AND REVISION NOTES

1982 ACT

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3902(a)	31 App.:1801(a)(1), (b)(1) (2d, last sentences).	May 21, 1982, Pub. L. 97–177, §2(a)(1), (b)–(d), 96 Stat. 85.
3902(b)	31 App.:1801(b)(1) (1st sentence).	
3902(c)	31 App.:1801(b)(2).	
3902(d)	31 App.:1801(c).	
3902(e)	31 App.:1801(d).	

In subsection (a), the words ''under section 3903 of this title'' are substituted for ''by the Director of the Office of Management and Budget'' because of the restatement. The words ''in accordance with this section'' are omitted as surplus.

In subsection (b), before clause (1), the words ''on amounts due to a business concern under this chapter . . . to the business concern'', ''of the amount due'', and ''complete delivered . . . of property or service concerned'' are omitted as surplus.

In subsection (c), the words ''which remains'' are omitted as surplus.

In subsection (e), the words ''terms and'' and ''non-Federal'' are omitted as surplus. The word ''Government'' is added for consistency in the revised title and with other titles of the United States Code.

1984 ACT

This is necessary to correct cross-references in section 3902(b).

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (h)(2)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–362 substituted ''The'' for ''Except as provided in section 3906 of this title, the''.

1988—Subsec. (a). Pub. L. 100–496, §3(a)(1), substituted ''The interest shall be computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty'' for ''The interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary shall publish each rate in the Federal Register''.

Subsec. (b). Pub. L. 100–496, §3(a)(2), struck out second sentence which read as follows: ''However, a penalty may not be paid if payment for the item is made—

''(1) when the item is a meat or meat food product described in section 3903(2) of this title, before the 4th day after the required payment date;

''(2) when the item is an agricultural commodity described in section 3903(3) of this title, before the 6th day after the required payment date; or

''(3) when the item is not an item referred to in clauses (1) and (2) of this subsection, before the 16th day after the required payment date.''

Subsecs. (c) to (g). Pub. L. 100–496, §3(b), added subsecs. (c) and (d) and redesignated former subsecs. (c) to (e) as (e) to (g), respectively.

Subsec. (h). Pub. L. 100–496, §3(c), added subsec. (h).

1984—Subsec. (b). Pub. L. 98–216 substituted ''3903(2)'' for ''3903(2)(A)'' in par. (1) and ''3903(3)'' for ''3903(2)(B)'' in par. (2).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 14(a)–(c) of Pub. L. 100–496 provided that:

''(a) The amendments made by sections 2(a), 2(b), 3(a), 4 through 9, 12, and 13 of this Act [enacting section 3905 of this title, amending this section, sections 3901, 3903, and 3904 of this title and section 644 of Title 15, Commerce and Trade, renumbering sections 3905 and 3906 of this title as sections 3906 and 3907, respectively, and repealing provisions set out as a note under section 3903 of this title] shall apply to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after the date of the enactment of this Act [Oct. 17, 1988].

''(b) The requirements of section 3902(c)(2) of title 31, United States Code, as added by section 3(b) of this Act, shall apply to payments under contracts awarded on or after October 1, 1989.

''(c) The amendments made by sections 2(c) and 3(c) of this Act [amending this section, section 3901 of this title, and section 410 of Title 39, Postal Service] shall be applicable with respect to all obligations incurred on or after January 1, 1989.''

PAYMENT OF INTEREST PENALTIES BY DEPARTMENT OF DEFENSE

Pub. L. 107–117, div. A, title VIII, §8084, Jan. 10, 2002, 115 Stat. 2266, provided that: ''Notwithstanding 31

U.S.C. 3902, during the current fiscal year and hereafter, interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–259, title VIII, § 8083, Aug. 9, 2000, 114 Stat. 692.

Pub. L. 106–79, title VIII, § 8088, Oct. 25, 1999, 113 Stat. 1252.

Pub. L. 105–262, title VIII, § 8092, Oct. 17, 1998, 112 Stat. 2319.

Pub. L. 105–56, title VIII, § 8103, Oct. 8, 1997, 111 Stat. 1243.

INTEREST PENALTIES FOR LATE PAYMENT OF INTERIM PAYMENTS DUE UNDER GOVERNMENT SERVICE CONTRACTS

Pub. L. 106–398, § 1 [[div. A], title X, § 1010], Oct. 30, 2000, 114 Stat. 1654, 1654A–251, as amended by Pub. L. 107–107, div. A, title X, § 1007, Dec. 28, 2001, 115 Stat. 1204, provided that:

''(a) PROMPT PAYMENT REQUIREMENT FOR INTERIM PAYMENTS.—Under regulations prescribed under subsection (c), the head of an agency acquiring services from a business concern under a cost reimbursement contract requiring interim payments who does not pay the concern a required interim payment by the date that is 30 days after the date of the receipt of a proper invoice shall pay an interest penalty to the concern on the amount of the payment due. The interest shall be computed as provided in section 3902(a) of title 31, United States Code.

''(b) REGULATIONS.—The Director of the Office of Management and Budget shall prescribe regulations to carry out this section. Such regulations shall be prescribed as part of the regulations prescribed under section 3903 of title 31, United States Code.

''(c) INCORPORATION OF CERTAIN PROVISIONS OF LAW.—The provisions of chapter 39 of title 31, United States Code, shall apply to this section in the same manner as if this section were enacted as part of such chapter.

''(d) EFFECTIVE DATE.—Subsection (a) shall take effect on December 15, 2000, and shall apply with respect to interim payments that are due on or after such date under contracts entered into before, on, or after that date. No interest shall accrue by reason of that subsection for any period before that date.''

§ 3903. Regulations

(a) The Director of the Office of Management and Budget shall prescribe regulations to carry out section 3902 of this title. The regulations shall—

(1) provide that the required payment date is—

(A) the date payment is due under the contract for the item of property or service provided; or

(B) 30 days after a proper invoice for the amount due is received if a specific payment date is not established by contract;

(2) for the acquisition of meat or a meat food product (as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3))), including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, or of fresh or frozen fish (as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), provide a required payment date of not later than 7 days after the meat, meat food product, or fish is delivered; and

(3) for the acquisition of a perishable agricultural commodity (as defined in section 1(4)[1] of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4))), provide a required payment date consistent with that Act;

(4) for the acquisition of dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), the acquisition of edible fats or oils, and the acquisition of food products prepared from edible fats or oils, provide a required payment date of not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products;

(5) require periodic payments, in the case of a property or service contract which does not prohibit periodic payments for partial deliveries or other contract performance during the contract period, upon—

(A) submission of an invoice for property delivered or services performed during the contract period, if an invoice is required by the contract; and

(B) either—

(i) acceptance of the property or services by an employee of an agency authorized to accept the property or services; or

(ii) the making of a determination by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract;

(6) in the case of a construction contract, provide for the payment of interest on—

(A) a progress payment (including a monthly percentage-of-completion progress payment or milestone payments for completed phases, increments, or segments of any project) that is approved as payable by the agency pursuant to subsection (b) of this section and remains unpaid for—

(i) a period of more than 14 days after receipt of the payment request by the place or person designated by the agency to first receive such requests; or

(ii) a longer period, specified in the solicitation, if required to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract; and

(B) any amounts which the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a contractor and that are approved for release to the contractor, if such retained amounts are not paid to the contractor by a date specified in the contract or, in the absence of such a specified date, by the 30th day after final acceptance;

(7) require that—

(A) each invoice be reviewed as soon as practicable after receipt for the purpose of determining that such an invoice is a proper invoice within the meaning of section 3901(a)(3) of this title;

(B) any invoice determined not to be such a proper invoice suitable for payment shall

[1] See References in Text note below.

be returned as soon as practicable, but not later than 7 days, after receipt, specifying the reasons that the invoice is not a proper invoice; and

(C) the number of days available to an agency to make a timely payment of an invoice without incurring an interest penalty shall be reduced by the number of days by which an agency exceeds the requirements of subparagraph (B) of this paragraph;

(8) permit an agency to make payment up to 7 days prior to the required payment date, or earlier as determined by the agency to be necessary on a case-by-case basis; and

(9) prescribe the methods for computing interest under section 3903(c)[1] of this title.

(b)(1) A payment request may not be approved under subsection (a)(6)(A) of this section unless the application for such payment includes—

(A) substantiation of the amounts requested; and

(B) a certification by the prime contractor, to the best of the contractor's knowledge and belief, that—

(i) the amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(ii) payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this chapter; and

(iii) the application does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

(2) The agency shall return any such payment request which is defective to the contractor within 7 days after receipt, with a statement identifying the defect.

(c) A contract for the procurement of subsistence items that is entered into under the prime vendor program of the Defense Logistics Agency may specify for the purposes of section 3902 of this title a single required payment date that is to be applicable to an invoice for subsistence items furnished under the contract when more than one payment due date would otherwise be applicable to the invoice under the regulations prescribed under paragraphs (2), (3), and (4) of subsection (a) or under any other provisions of law. The required payment date specified in the contract shall be consistent with prevailing industry practices for the subsistence items, but may not be more than 10 days after the date of receipt of the invoice or the certified date of receipt of the items. The Director of the Office of Management and Budget shall provide in the regulations under subsection (a) that when a required payment date is so specified for an invoice, no other payment due date applies to the invoice.

(d)(1) The contracting officer shall—

(A) compute the interest which a contractor shall be obligated to pay under sections 3905(a)(2) and 3905(e)(6) of this title on the basis of the average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the contractor received the unearned amount; and

(B) deduct the interest amount determined under subparagraph (A) of this paragraph from the next available payment to the contractor.

(2) Amounts deducted from payments to contractors under paragraph (1)(B) shall revert to the Treasury.

(Added Pub. L. 97–452, § 1(18)(A), Jan. 12, 1983, 96 Stat. 2476; amended Pub. L. 100–496, §§ 4–7, 13(a), Oct. 17, 1988, 102 Stat. 2457–2459, 2465; Pub. L. 102–190, div. A, title VIII, § 842, Dec. 5, 1991, 105 Stat. 1449; Pub. L. 106–65, div. A, title X, § 1009, Oct. 5, 1999, 113 Stat. 738.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3903	31 App.:1801(a)(2).	May 21, 1982, Pub. L. 97–177, § 2(a)(2), 96 Stat. 85.

In the section, before clause (1), the words "The Director of the Office of Management and Budget shall prescribe regulations to carry out section 3902 of this title" are added because of the restatement. In clause (1)(A), the words "the terms of" are omitted as surplus. In clause (1)(B), the words "of the payment" are omitted as surplus.

REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, 1930, referred to in subsec. (a)(3), is act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to chapter 20A (§ 499a et seq.) of Title 7, Agriculture. Section 1(4) of the Act was redesignated section 1(b)(4) by Pub. L. 102–237, title X, § 1011(1)(A), Dec. 13, 1991, 105 Stat. 1898, and is classified to section 499a(b)(4) of Title 7. For complete classification of this Act to the Code, see section 499r of Title 7 and Tables.

Section 3903(c) of this title, referred to in subsec. (a)(9), was redesignated section 3903(d) by Pub. L. 106–65, div. A, title X, § 1009(1), Oct. 5, 1999, 113 Stat. 738.

AMENDMENTS

1999—Subsecs. (c), (d). Pub. L. 106–65 added subsec. (c) and redesignated former subsec. (c) as (d).

1991—Subsec. (a)(2). Pub. L. 102–190 inserted provisions relating to fresh or frozen fish as defined in 16 U.S.C. 4003(3) and substituted "meat, meat food product, or fish" for "meat or meat food product".

1988—Subsec. (a). Pub. L. 100–496, § 6(1), designated existing provisions as subsec. (a).

Subsec. (a)(2). Pub. L. 100–496, § 13(a), included any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product.

Subsec. (a)(4). Pub. L. 100–496, § 4, amended par. (4) generally. Prior to amendment, par. (4) read as follows: "provide separate required payment dates for a contract under which property or service is provided in a series of partial executions or deliveries to the extent the contract provides for separate payments for partial execution or delivery; and".

Subsec. (a)(5). Pub. L. 100–496, § 5(2), added par. (5). Former par. (5) redesignated (7).

Subsec. (a)(6). Pub. L. 100–496, § 6(2), added par. (6).

Subsec. (a)(7). Pub. L. 100–496, § 7, added par. (7) and struck out former par. (7), which read as follows: "require that, within 15 days after an invoice is received, the head of an agency notify the business concern of a defect or impropriety in the invoice that would prevent the running of the time period specified in clause (1)(B) of this section."

Pub. L. 100–496, § 5(1), redesignated par. (5) as (7).

Subsec. (a)(8), (9). Pub. L. 100–496, § 7, added pars. (8) and (9).

Subsecs. (b), (c). Pub. L. 100–496, § 6(3), added subsecs. (b) and (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–496 applicable to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after Oct. 17, 1988, see section 14(a) of Pub. L. 100–496, set out as a note under section 3902 of this title.

IMPLEMENTATION THROUGH FEDERAL ACQUISITION REGULATION

Section 11 of Pub. L. 100–496 provided that:

''(a) The Federal Acquisition Regulation shall be modified to provide appropriate solicitation provisions and contract clauses that implement chapter 39 of title 31, United States Code, as amended by this Act [see Short Title of 1988 Amendment note set out under section 3901 of this title], and the regulations prescribed under section 3903 of such title (as amended).

''(b) The solicitation provisions and contract clauses required by subsection (a) of this section shall include (but not be limited to) the following matters:

''(1) Authority for a contracting officer to specify for a contract or class of contracts a specific payment period, which—

''(A) in the case of payments for commercial items or services, is similar to the payment period or periods permitted in prevailing private industry contracting practices;

''(B) in the case of payments for noncommercial items and services, does not exceed 30 days unless the circumstances of the procurement action is determined to require a longer period for payment and such determination is approved above the level of the contracting officer;

''(C) in the case of payments for items of property or services in an amount less than the amount specified as a small purchase in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)), does not exceed 15 days after the date of receipt of the invoice, if—

''(i) the contract provides for such 'fast payment' terms;

''(ii) title to any property will vest in the Government upon delivery (including delivery to a common carrier); and

''(iii) the business concern offers appropriate warranties to furnish property or services conforming to the requirements of the contract or purchase order, if payment will be due prior to acceptance of the items or services; and

''(D) in the case of progress payments under construction contracts, does not exceed 14 days, unless the solicitation specifies a longer period which the contracting officer has determined is required to afford the Government a practicable opportunity to adequately inspect the work and to evaluate the adequacy of the contractor's performance under the contract.

''(2) Requirements to make periodic payments, in the case of a property or service contract which does not prohibit periodic payments for partial deliveries or other contract performance during the contract period, upon—

''(A) submission of an invoice for property delivered or services performed during the contract period, if an invoice is required by the contract; and

''(B) either—

''(i) acceptance of the property or services by an employee of the contracting agency authorized to accept the property or services; or

''(ii) the making of a determination by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract.

''(3) A conclusive presumption, exclusively for the purposes of determining when an agency becomes obligated to pay a late payment interest penalty (other than under construction contracts), that the Federal Government has accepted property or services by the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed, unless the solicitation specifies a longer period which is determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed.

''(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor, determined in accordance with the second sentence of section 3904 of title 31, United States Code.

''(5) The requirements of section 3902(c) of title 31, United States Code.

''(6) The requirements of section 3903(a)(6) of title 31, United States Code.

''(7) The requirements of section 3905 of title 31, United States Code.

''(c) The regulations required by subsection (a) of this section shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) within 120 days after the date of the enactment of this Act [Oct. 17, 1988].''

EDIBLE FRESH OR FROZEN POULTRY MEAT, PERISHABLE POULTRY MEAT FOOD PRODUCTS, FRESH EGGS, AND PERISHABLE EGG PRODUCTS

Pub. L. 98–181, title II, § 2002, Nov. 30, 1983, 97 Stat. 1297, to the extent that it provided that the terms ''meat'' and ''meat food products'' as used in 31 U.S.C. 3903(2) also included edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products, was stricken by Pub. L. 100–496, § 13(b), Oct. 17, 1988, 102 Stat. 2465, applicable to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after Oct. 17, 1988.

§ 3904. Limitations on discount payments

The head of an agency offered a discount by a business concern from an amount due under a contract for property or service in exchange for payment within a specified time may pay the discounted amount only if payment is made within the specified time. For the purpose of the preceding sentence, the specified time shall be determined from the date of the invoice. The head of the agency shall pay an interest penalty on an amount remaining unpaid in violation of this section. The penalty accrues as provided under sections 3902 and 3903 of this title, except that the required payment date for the unpaid amount is the last day specified in the contract that the discounted amount may be paid.

(Added Pub. L. 97–452, § 1(18)(A), Jan. 12, 1983, 96 Stat. 2476; amended Pub. L. 100–496, § 8, Oct. 17, 1988, 102 Stat. 2460.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3904	31 App.:1802.	May 21, 1982, Pub. L. 97–177, § 3, 96 Stat. 86.

The word ''otherwise'' is omitted as surplus. The words ''may pay the discounted amount'' are substituted for ''may make payment in an amount equal

to the discounted price'' to eliminate unnecessary words. The words ''on such unpaid amount'' and ''the regulations prescribed pursuant to'' are omitted as surplus. The words ''specified in the contract that the discounted amount may be paid'' are substituted for ''of the specified period of time described in subsection (a)'' for clarity.

AMENDMENTS

1988—Pub. L. 100–496 inserted after first sentence ''For the purpose of the preceding sentence, the specified time shall be determined from the date of the invoice.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–496 applicable to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after Oct. 17, 1988, see section 14(a) of Pub. L. 100–496, set out as a note under section 3902 of this title.

§ 3905. Payment provisions relating to construction contracts

(a) In the event that a contractor, after making a certified payment request to an agency pursuant to section 3903(b) of this title, discovers that a portion or all of such payment request constitutes a payment for performance by such contractor that fails to conform to the specifications, terms, and conditions of its contract (hereafter in this subsection referred to as the ''unearned amount''), then the contractor shall—

(1) notify the agency of such performance deficiency; and

(2) be obligated to pay the Government an amount equal to interest on the unearned amount (computed in the manner provided in section 3903(c) of this title), from the date of the contractor's receipt of such unearned amount until—

(A) the date the contractor notifies the agency that the performance deficiency has been corrected; or

(B) the date the contractor reduces the amount of any subsequent certified application for payment to such agency by an amount equal to the unearned amount.

(b) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract—

(1) a payment clause which obligates the prime contractor to pay the subcontractor for satisfactory performance under its subcontract within 7 days out of such amounts as are paid to the prime contractor by the agency under such contract; and

(2) an interest penalty clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1) of this subsection—

(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(B) computed at the rate specified by section 3902(a) of this title.

(c) The construction contract awarded by the agency shall further require the prime contractor to include in each of its subcontracts (for the purpose of performance of such construction contract) a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of subsection (b) of this section in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) The clauses required by subsections (b) and (c) of this section shall not be construed to impair the right of a prime contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions which—

(1) permit the prime contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract, without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) permit the contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) permit such withholding without incurring any obligation to pay a late payment penalty if—

(A) a notice conforming to the standards of subsection (g) of this section has been previously furnished to the subcontractor; and

(B) a copy of any notice issued by a prime contractor pursuant to subparagraph (A) of this paragraph has been furnished to the Government.

(e) If a prime contractor, after making application to an agency for payment under a contract but before making a payment to a subcontractor for the subcontractor's performance covered by such application, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the prime contractor shall—

(1) furnish to the subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) furnish to the Government, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (1) of this subsection;

(3) reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (1) of this subsection;

(4) pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

(A) make such payment within—

(i) 7 days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (5)(A)); or

(ii) 7 days after the contractor recovers such funds from the Government; or

(B) incur an obligation to pay a late payment interest penalty computed at the rate specified by section 3902(a) of this title;

(5) notify the Government, upon—

(A) reduction of the amount of any subsequent certified application for payment; or

(B) payment to the subcontractor of any withheld amounts of a progress payment, specifying—

(i) the amounts of the progress payments withheld under paragraph (1) of this subsection; and

(ii) the dates that such withholding began and ended; and

(6) be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in section 3903(c) of this title), from the 8th day after receipt of the withheld amounts from the Government until—

(A) the day the identified subcontractor performance deficiency is corrected; or

(B) the date that any subsequent payment is reduced under paragraph (5)(A).

(f)(1) If a prime contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a ''second-tier subcontractor'') a written notice in accordance with section 3133(b) of title 40, asserting a deficiency in such first-tier subcontractor's performance under the contract for which the prime contractor may be ultimately liable, and the prime contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, then the prime contractor may, without incurring an obligation to pay an interest penalty under subsection (e)(6) of this section—

(A) furnish to the first-tier subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon making such determination; and

(B) withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (A) of this paragraph.

(2) As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the prime contractor shall pay the amount withheld under paragraph (1)(B) of this subsection to such first-tier subcontractor, or shall incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate specified by section 3902(a) of this title.

(g) A written notice of any withholding shall be issued to a subcontractor (with a copy to the Government of any such notice issued by a prime contractor), specifying—

(1) the amount to be withheld;

(2) the specific causes for the withholding under the terms of the subcontract; and

(3) the remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) A prime contractor may not request payment from the agency of any amount withheld or retained in accordance with subsection (d) of this section until such time as the prime contractor has determined and certified to the agency that the subcontractor is entitled to the payment of such amount.

(i) A dispute between a contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to subsection (b) or (c) of this section does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Except as provided in subsection (i) of this section, this section shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to a contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by a prime contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) A contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under subsection (b) or (c) of this section may not be construed to be an obligation of the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.

(Added Pub. L. 100–496, § 9(a)(2), Oct. 17, 1988, 102 Stat. 2460; amended Pub. L. 107–217, § 3(h)(7), Aug. 21, 2002, 116 Stat. 1300.)

PRIOR PROVISIONS

A prior section 3905 was renumbered section 3906 of this title.

AMENDMENTS

2002—Subsec. (f)(1). Pub. L. 107–217 substituted ''section 3133(b) of title 40'' for ''section 2 of the Act of August 24, 1935 (40 U.S.C. 270b)''.

EFFECTIVE DATE

Section applicable to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after Oct. 17, 1988, see section 14(a) of Pub. L. 100–496, set out as an Effective Date of 1988 Amendment note under section 3902 of this title.

[§ 3906. Repealed. Pub. L. 105–362, title XIII, § 1301(c)(1), Nov. 10, 1998, 112 Stat. 3293]

Section, added Pub. L. 97–452, § 1(18)(A), Jan. 12, 1983, 96 Stat. 2476, § 3905; renumbered § 3906 and amended Pub.

L. 100–496, §§ 9(a)(1), 10, Oct. 17, 1988, 102 Stat. 2460, 2463, required submission of reports to Director of the Office of Management and Budget by 60th day after end of fiscal year by head of each agency concerning agency's payment practices during that fiscal year.

A prior section 3906 was renumbered section 3907 of this title.

§ 3907. Relationship to other laws

(a) A claim for an interest penalty not paid under this chapter may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605).

(b)(1) An interest penalty under this chapter does not continue to accrue—

(A) after a claim for a penalty is filed under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.); or

(B) for more than one year.

(2) Paragraph (1) of this subsection does not prevent an interest penalty from accruing under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after a penalty stops accruing under this chapter. A penalty accruing under section 12 may accrue on an unpaid contract payment and on the unpaid penalty under this chapter.

(c) Except as provided in section 3904 of this title, this chapter does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a business concern over the amount of payment or compliance with the contract. A claim related to the dispute, and interest payable for the period during which the dispute is being resolved, is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(Added Pub. L. 97–452, § 1(18)(A), Jan. 12, 1983, 96 Stat. 2477, § 3906; renumbered § 3907, Pub. L. 100–496, § 9(a)(1), Oct. 17, 1988, 102 Stat. 2460.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
3906(a)	31 App.:1803(a)(1).	May 21, 1982, Pub. L. 97–177, § 4, 96 Stat. 87.
3906(b)	31 App.:1803(a)(2), (3).	
3906(c)	31 App.:1803(b).	

In the section, the words "be construed to" are omitted as surplus.

In subsection (a), the words "not paid under this chapter" are substituted for "which a Federal agency has failed to pay in accordance with the requirements of section 2 or 3 of this chapter" to eliminate unnecessary words.

In subsection (b)(2), the word "accruing" is added for clarity. The word "both" is omitted as surplus.

In subsection (c), the words "with respect to disputes concerning discounts", "by the required payment date", and "other allegations concerning" are omitted as surplus.

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsecs. (b)(1)(A) and (c), is Pub. L. 95–563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code see Short Title note set out under section 601 of Title 41 and Tables.

AMENDMENTS

1988—Pub. L. 100–496 renumbered section 3906 of this title as this section.

SUBTITLE IV—MONEY

Chap.		Sec.
51.	**Coins and Currency**	**5101**
53.	**Monetary Transactions**	**5301**

CHAPTER 51—COINS AND CURRENCY

SUBCHAPTER I—MONETARY SYSTEM

Sec.
5101. Decimal system.
5102. Standard weight.
5103. Legal tender.

SUBCHAPTER II—GENERAL AUTHORITY

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5112. Denominations, specifications, and design of coins.
5113. Tolerances and testing of coins.
5114. Engraving and printing currency and security documents.
5115. United States currency notes.
5116. Buying and selling gold and silver.
5117. Transferring gold and gold certificates.
5118. Gold clauses and consent to sue.
5119. Redemption and cancellation of currency.
5120. Obsolete, mutilated, and worn coins and currency.
5121. Refining, assaying, and valuation of bullion.
5122. Payment to depositors.

SUBCHAPTER III—UNITED STATES MINT

5131. Organization.
5132. Administrative.
5133. Settlement of accounts.
5134. Numismatic Public Enterprise Fund.
5135. Numismatic Public Enterprise Fund.[1]
5136. United States Mint Public Enterprise Fund.[2]

SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING

5141. Operation of the Bureau.
5142. Bureau of Engraving and Printing Fund.
5143. Payment for services.
5144. Providing impressions of portraits and vignettes.

SUBCHAPTER V—MISCELLANEOUS

5151. Conversion of currency of foreign countries.
5152. Value of United States money holdings in international institutions.
5153. Counterfeit currency.
5154. State taxation.
5155. Providing engraved plates of portraits of deceased members of Congress.

AMENDMENTS

1992—Pub. L. 102–390, title II, §§ 221(d), 225(b)(6), 229(b), Oct. 6, 1992, 106 Stat. 1629, 1630, 1632, substituted "UNITED STATES MINT" for "BUREAU OF THE MINT" in subchapter III heading and added items 5134 and 5135.

SUBCHAPTER I—MONETARY SYSTEM

§ 5101. Decimal system

United States money is expressed in dollars, dimes or tenths, cents or hundreths,[1] and mills or thousandths. A dime is a tenth of a dollar, a cent is a hundredth of a dollar, and a mill is a thousandth of a dollar.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 980.)

[1] So in original. Does not conform to section catchline.

[2] Editorially supplied. Section added by Pub. L. 104–52 without corresponding amendment of chapter analysis.

[1] So in original. Probably should be "hundredths,".