# TITLE 31—MONEY AND FINANCE

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| 741a | 324 |
| 742, 742a | 3124 |
| 743–751 | Rep. |
| 752 (1st–4th pars. less 2d par. form of bonds). | 3102 |
| 752 (2d par. related to form of bonds). | 3121 |
| 752 (last par.) | 3107 |
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| 753(a) (less form of notes, certificates of indebtedness, and Treasury bills). | 3103 |
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| 753(b) | Rep. |
| 753(c) | 3103 |
| 753(d) (1st sentence) | 3108 |
| 753(d) (2d sentence) | 3123 |
| 753(d) (last sentence related to 31:771). | 3122 |
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| 754(a) (less form of certificates of indebtedness and Treasury bills, finality). | 3104 |
| 754(a) (related to form of certificates of indebtedness and Treasury bills, finality). | 3121 |
| 754(b) | Rep. |
| 754(c) | T. 12 § 221 |
| 754(d) | Rep. |
| 754a | 3111 |
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| 755–757 | Rep. |
| 757a | (See former 405b) |
| 757b, 757b–1 | 3101 |
| 757b–2 | Rep. |
| 757c(a)–(d) (1st sentence) | 3105 |
| 757c(d) (last sentence) | 3108 |
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| 757c(i) (last sentence) | 331 |
| 757c(j) | 3105 |
| 757c–1 | Rep. |
| 757c–2(a)–(c) (1st sentence) | 3106 |
| 757c–2(c) (last sentence) | 3108 |
| 757c–2(d) | 3106 |
| 757c–3 | 3109 |
| 757c–4, 757c–5 | 3121 |
| 757d | 3128 |
| 757e | 3113 |
| 757f | 331 |
| 758 | 3108 |
| 759–761 | 3129 |
| 761a to 765 | Rep. |
| 766 | 3123 |
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| 767a | Rep. |
| 767b | 3112 |
| 768 (words before semicolon) | 3123 |
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| 769, 770 | Rep. |
| 771, 772 | 3122 |
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| 804a to 809 | Rep. |
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| 822 | 5304 |
| 822a(a)–(c) | 5302 |
| 822a(d) | 325 |
| 822b | 5117, 5119, 5304 |
| 823, 824 | Rep. |
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| 846 | 9101 |
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| 868 (less (d) (1st sentence related to 31:867)). | 9108 |
| 868(d) (1st sentence related to 31:867). | 9107 |
| 869(a) | 9102 |
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| 952(e)(1) (1st to 3d sentences) | 3717 |
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| 952(e)(2)–(7) | 3717 |
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| 954(a)–(d) | 3716 |
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| 1008 | Rep. |
| 1009 | 301 |
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| 1012, 1013 | Rep. |
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| 1021, 1022 | Rep. |
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| 1028 | Rep. |
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| 1036 | T. 21 § 969 |
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| 1038 | 323 |
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| 1055 | 5318 |
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| 1057 | 5320 |
| 1058, 1059 | 5322 |
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| 1061 | 5319 |
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| 1154(a)–(c) | 717 |
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| 1222, 1223 | Rep. |
| 1224(a)(1), (2) (related to trustee). | 6703 |
| 1224(a)(2) (related to report) | 6724 |
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| 1224(c), (d), (e) | 6703 |
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| 1228(b) | 6707 |
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| 1228(d) | 6708 |
| 1228(e) | 6709 |
| 1228(f)(1) | 6707 |
| 1228(f)(2) | 6708 |
| 1228(f)(3), (last sentence) | 6709 |
| 1228(g) | 6707 |
| 1228(h) | 6713 |
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| 1242(c)(1) | 6701 |
| 1242(c)(2), (3) (related to proceedings). | 6717 |
| 1242(c)(3) (related to suspensions and terminations). | 6718 |
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| 1242(e), (f) | 6718 |
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| 1261(a) | 6703, 6724 |
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| 1262(a) | 321 |
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ENACTING CLAUSE

Section 1 of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877, provided in part that: ''Certain general and permanent laws of the United States, related to money and finance, are revised, codified, and enacted as title 31, United States Code, 'Money and Finance'. . . .''

LEGISLATIVE PURPOSE; INCONSISTENT PROVISIONS

Section 4(a) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1067, provided that: ''Sections 1–3 of this Act restate, without substantive change, laws enacted before April 16, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after April 15, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.''

REFERENCES TO OTHER LAWS

Section 4(b) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1067, provided that: ''A reference to a law replaced by sections 1–3 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.''

OUTSTANDING ORDERS, RULES, AND REGULATIONS

Section 4(c) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1067, provided that: ''An order, rule, or regulation in effect under a law replaced by sections 1–3 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.''

SAVINGS PROVISION

Section 4(d) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1067, provided that: ''An action taken or an offense committed under a law replaced by sections 1–3 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.''

LEGISLATIVE CONSTRUCTION

Section 4(e) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1067, provided that: ''An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.''

SEVERABILITY

Section 4(f) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877, provided that: ''If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.''

REPEALS

Section 6(a) of Pub. L. 98–216, Feb. 14, 1984, 98 Stat. 7, provided that: ''The repeal of a law enacted by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.''

Section 6(b) of Pub. L. 98–216, Feb. 14, 1984, 98 Stat. 7, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Feb. 14, 1984.

Section 4(a) of Pub. L. 97–452, Jan. 12, 1983, 96 Stat. 2479, provided that: ''The repeal of a law enacted by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.''

Section 4(b) of Pub. L. 97–452, Jan. 12, 1983, 96 Stat. 2480, repealed specified laws, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Jan. 12, 1983.

Section 5(a) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1068, provided that: ''The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.''

Section 5(b) of Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1068, repealed the sections or parts thereof of the Revised Statutes or Statutes at Large codified in this title, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before Sept. 13, 1982.

IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 98–216; LEGISLATIVE PURPOSE; INCONSISTENT PROVISIONS; CORRESPONDING PROVISIONS; SAVINGS AND SEPARABILITY OF PROVISIONS

Pub. L. 98–216, § 5, Feb. 14, 1984, 98 Stat. 7, provided that:

''(a) Sections 1–4 of this Act restate, without substantive change, laws enacted before April 1, 1983, that were replaced by those sections. Sections 1–4 may not be construed as making a substantive change in the laws replaced. Laws enacted after March 31, 1983, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

''(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

''(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

''(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

''(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.''

IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 97–452; LEGISLATIVE PURPOSE; INCONSISTENT PROVISIONS; CORRESPONDING PROVISIONS; SAVINGS AND SEPARABILITY OF PROVISIONS

Pub. L. 97–452, § 3, Jan. 12, 1983, 96 Stat. 2479, provided that:

''(a) Sections 1 and 2 of this Act restate, without substantive change, laws enacted before December 1, 1982, that were replaced by those sections. Sections 1 and 2 may not be construed as making a substantive change in the laws replaced. Laws enacted after November 30, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

''(b) A reference to a law replaced by sections 1 and 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

''(c) An order, rule, or regulation in effect under a law replaced by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

''(d) An action taken or an offense committed under a law replaced by sections 1 and 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

''(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

''(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.''

# SUBTITLE I—GENERAL


| Chap. | | Sec. |
|---|---|---|
| **1.** | **Definitions** | **101** |
| **3.** | **Department of the Treasury** | **301** |
| **5.** | **Office of Management and Budget** | **501** |
| **7.** | **Government Accountability Office** | **701** |
| **9.** | **Agency Chief Financial Officers** | **901** |


AMENDMENTS

2004—Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814, substituted ''Government Accountability Office'' for ''General Accounting Office'' in item for chapter 7.

1990—Pub. L. 101–576, title II, § 205(b), Nov. 15, 1990, 104 Stat. 2845, added item for chapter 9.

## CHAPTER 1—DEFINITIONS


Sec.
101. Agency.
102. Executive agency.
103. United States.


### § 101. Agency

In this title, ''agency'' means a department, agency, or instrumentality of the United States Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 101 ..... | (no source). | |

The section is included to avoid the necessity for defining ''agency'' each time it is used in the revised title.

### § 102. Executive agency

In this title, ''executive agency'' means a department, agency, or instrumentality in the executive branch of the United States Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 102 ..... | (no source). | |

The section is included to avoid the necessity for defining ''executive agency'' each time it is used in the revised title.

### § 103. United States

In this title, ''United States'', when used in a geographic sense, means the States of the United States and the District of Columbia.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 103 ..... | (no source). | |

The section is included to avoid the necessity for defining ''United States'' each time it is used in the revised title.

## CHAPTER 3—DEPARTMENT OF THE TREASURY

SUBCHAPTER I—ORGANIZATION

Sec.
301. Department of the Treasury.
302. Treasury of the United States.
303. Bureau of Engraving and Printing.
304. Bureau of the Mint.[1]
305. Federal Financing Bank.
306. Fiscal Service.
307. Office of the Comptroller of the Currency.
308. United States Customs Service.
309. Office of Thrift Supervision.
310. Financial Crimes Enforcement Network.
311. Office of Intelligence and Analysis.
312. Continuing in office.
313. Terrorism and Financial Intelligence.[2]

SUBCHAPTER II—ADMINISTRATIVE

321. General authority of the Secretary.
322. Working capital fund.
323. Investment of operating cash.
324. Disposing and extending the maturity of obligations.
325. International affairs authorization.
326. Availability of appropriations for certain expenses.
327. Advancements and reimbursements for services.
328. Accounts and payments of former disbursing officials.
329. Limitations on outside activities.
330. Practice before the Department.
331. Reports.
332. Miscellaneous administrative authority.
333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

AMENDMENTS

2003—Pub. L. 108–177, title I, § 105(a)(2), Dec. 13, 2003, 117 Stat. 2603, added item 311 and redesignated former item 311 as 312.

2001—Pub. L. 107–56, title III, § 361(c), Oct. 26, 2001, 115 Stat. 332, added item 310 and redesignated former item 310 as 311.

1994—Pub. L. 103–296, title III, § 312(*l*)(2), Aug. 15, 1994, 108 Stat. 1530, added item 333.

1989—Pub. L. 101–73, title III, § 307(a)(2), Aug. 9, 1989, 103 Stat. 352, added item 309 and redesignated former item 309 as 310.

1984—Pub. L. 98–302, § 3(b), May 25, 1984, 98 Stat. 218, added item 332.

SUBCHAPTER I—ORGANIZATION

### § 301. Department of the Treasury

(a) The Department of the Treasury is an executive department of the United States Government at the seat of the Government.

(b) The head of the Department is the Secretary of the Treasury. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of the Treasury appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall carry out—

(1) duties and powers prescribed by the Secretary; and

(2) the duties and powers of the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has 2 Under Secretaries, an Under Secretary for Enforcement, 2 Deputy Under Secretaries, and a Treasurer of the United States, appointed by the President, by and with the advice and consent of the Senate. The Department also has a Fiscal Assistant Secretary appointed by the Secretary. They shall carry out duties and powers prescribed by the Secretary. The President may designate one Under Secretary as Counselor. When appointing each Deputy Under Secretary, the President may designate the Deputy Under Secretary as an Assistant Secretary.

(e) The Department has 10 Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall carry out duties and powers prescribed by the Secretary. The Assistant Secretaries appointed under this subsection are in addition to the Assistant Secretaries appointed under subsection (d) of this section.

(f)(1) The Department has a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief law officer of the Department. Without regard to those provisions of title 5 governing appointment in the competitive service, the Secretary may appoint not more than 5 Assistant General Counsels. The Secretary may designate one of the Assistant General Counsels to act as the General Counsel when the General Counsel is absent or unable to serve or when the office of General Counsel is vacant. The General Counsel and Assistant General Counsels shall carry out duties and powers prescribed by the Secretary.

(2) The President may appoint, by and with the advice and consent of the Senate, an Assistant General Counsel who shall be the Chief Counsel for the Internal Revenue Service. The Chief Counsel is the chief law officer for the Service and shall carry out duties and powers prescribed by the Secretary.

(g) The Department shall have a seal.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 878; Pub. L. 98–594, § 1(a), Oct. 30, 1984, 98 Stat. 3129; Pub. L. 99–190, § 141, Dec. 19, 1985, 99 Stat. 1324; Pub. L. 103–211, title II, § 2003(a), Feb. 12, 1994, 108 Stat. 24; Pub. L. 108–177, title I, § 105(d)(2), Dec. 13, 2003, 117 Stat. 2603; Pub. L. 110–49, § 11(a), July 26, 2007, 121 Stat. 260; Pub. L. 110–343, div. A, title I, § 101(a)(3)(B)(ii), Oct. 3, 2008, 122 Stat. 3768.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 301(a) ..... | 31:1001(words before 1st comma). | R.S. § 233. |
| 301(b) ..... | 31:1001(words after 1st comma). | |
| 301(c) ..... | 31:1004(related to Deputy Secretary). | Feb. 17, 1922, ch. 55(related to appointment and duties of Deputy and Under Secretaries), 42 Stat. 366; July 22, 1954, ch. 557, § 3, 68 Stat. 496; restated May 18, 1972, Pub. L. 92–302, § 1(a), 86 Stat. 148.<br>Jan. 3, 1923, ch. 22(related to appointment and duties of Deputy and Under Secretaries), 42 Stat. 1087.<br>Apr. 4, 1924, ch. 84(related to appointment and duties of Deputy and Under Secretaries), 43 Stat. 64. |

[1] So in original. Does not conform to section catchline.

[2] Editorially supplied. Section 313 added by Pub. L. 108–447 without corresponding amendment of chapter analysis.

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 31:1005. | Feb. 17, 1922, ch. 55(related to vacancy in office of Secretary of the Treasury), 42 Stat. 366; restated May 18, 1972, Pub. L. 92–302, §1(a), 86 Stat. 149. Jan. 3, 1923, ch. 22(related to vacancy in office of Secretary of the Treasury), 42 Stat. 1087. Apr. 4, 1924, ch. 84(related to vacancy in office of Secretary of the Treasury), 43 Stat. 64. |
| 301(d) ..... | 31:141. | R.S. §301. |
| | 31:1004(related to Under Secretaries). | |
| | 31:1005a(1st–3d sentences). | May 18, 1972, Pub. L. 92–302, §1(b), 86 Stat. 149. |
| | 5 App. | Reorg. Plan No. 3 of 1940, eff. June 30, 1940, §1(a)(7)(1st sentence), 54 Stat. 1231. |
| 301(e) ..... | 31:1005a(last sentence). | |
| | 31:1006. | R.S. §234; July 11, 1890, ch. 667, §1(1st par. under heading ''Treasury Department''), 26 Stat. 236; Mar. 3, 1917, ch. 163, §1(1st par. under heading ''Treasury Department''), 39 Stat. 1083; Reorg. Plan No. 3 of 1940, eff. June 30, 1940, §1(d), 54 Stat. 1232; restated July 22, 1954, ch. 557, §4, 68 Stat. 496; July 8, 1963, Pub. L. 88–58, 77 Stat. 76; May 18, 1972, Pub. L. 92–302, §1(c), 86 Stat. 149. |
| | 31:1007. | R.S. §245. |
| 301(f)(1) ... | 26:7801(b)(1), (2)(last sentence), (3). | Aug. 16, 1954, ch. 736, §7801(b), 68A Stat. 915; restated Sept. 22, 1959, Pub. L. 86–368, §1, 73 Stat. 647; Aug. 14, 1964, Pub. L. 88–426, §305(39), 78 Stat. 427; Oct. 4, 1976, Pub. L. 94–455, §1906(b)(13)(B), 90 Stat. 1834. |
| | 31:1009. | May 10, 1934, ch. 277, §512(a), (c), 48 Stat. 758, 759. |
| 301(f)(2) ... | 26:7801(b)(2)(1st, 2d sentences). | |
| 301(g) ..... | 31:1010(related to seal). | R.S. §372(related to seal); May 10, 1934, ch. 277, §512(b), 48 Stat. 759. |

In subsection (a), the words ''of the United States Government'' are added for clarity.

In subsection (b), the words ''The Secretary is appointed by the President, by and with the advice and consent of the Senate'' are added to conform with clause 2, section 2, of article II of the Constitution.

In subsection (c), the words ''carry out'' and ''duties and powers'' are substituted for ''perform'' and ''duties'', respectively, for consistency in the revised title and with other titles of the United States Code. In clause (1), the words ''in the Office of the Secretary'' in 31:1004 are omitted as unnecessary because of the restatement and for consistency. Clause (2) is substituted for 31:1005 to eliminate unnecessary words and for consistency with other titles of the Code.

In subsection (d), the words ''in accordance with the civil-service laws'' in section 1(a)(7)(1st sentence) of Reorganization Plan No. 3 of 1940 (eff. June 30, 1940, 54 Stat. 1232) are omitted as unnecessary because of title 5. The words ''and shall receive a salary at the rate of $15,000 per annum'' are omitted as superseded by 5:5316. The words ''carry out'' and ''duties and powers'' are substituted for ''perform'' and ''duties'', respectively, in 31:1004 and 1005a for consistency in the revised title and with other titles of the Code. The words ''in the Office of the Secretary'' in 31:1004 are omitted as unnecessary because of the restatement and for consistency. The words ''of the Treasury'' in 31:1005a are omitted for consistency with other titles of the Code and as being unnecessary.

In subsection (e), the words ''of the Treasury'' in 31:1006 and 1007 are omitted for consistency with other titles of the Code and as being unnecessary. The words ''examine letters, contracts, and warrants prepared for the signature of the Secretary of the Treasury'' and ''by law'' in 31:1007 are omitted as superseded by the source provisions restated in section 321 of the revised title. The words ''carry out'' and ''duties and powers'' are substituted for ''perform'' and ''duties'', respectively, for consistency in the revised title and with other titles of the Code.

In subsection (f), the words ''carry out'' and ''duties and powers'' are substituted for ''perform'' and ''duties'', respectively, for consistency in the revised title and with other titles of the Code. The text of 26:7801(b)(3) is omitted as unnecessary because of 5:3101. The words ''is absent or unable to serve or when the office of General Counsel is vacant'' are substituted for ''during the absence of'' for clarity and consistency. The text of 31:1009(less (a)(6th sentence)) is omitted as superseded by 26:7801(b) as restated in this subsection.

In subsection (f)(1), the words ''governing appointment in the competitive service'' are substituted for ''civil service laws'' to conform to 5:2102.

In subsection (g), the words ''The General Counsel . . . shall have charge'' are omitted as superseded by the source provisions restated in subsection (b) of this section and section 321(c) of the revised title.

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (f)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–343 substituted ''10'' for ''9''.

2007—Subsec. (e). Pub. L. 110–49 substituted ''9 Assistant'' for ''8 Assistant''.

2003—Subsec. (e). Pub. L. 108–177 substituted ''8'' for ''7''.

1994—Subsec. (d). Pub. L. 103–211 inserted ''an Under Secretary for Enforcement,'' after ''2 Under Secretaries,''.

1985—Subsec. (d). Pub. L. 99–190 substituted ''2 Under Secretaries'' for ''an Under Secretary, an Under Secretary for Monetary Affairs'' and ''The President may designate one Under Secretary as Counselor'' for ''When appointing the Under Secretary, the President may designate the Under Secretary as Counselor''.

1984—Subsec. (e). Pub. L. 98–594 substituted ''7'' for ''5''.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–49 applicable after the end of the 90-day period beginning on July 26, 2007, see section 12 of Pub. L. 110–49, set out as a note under section 5315 of Title 5, Government Organization and Employees.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of the Treasury are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13246, Dec. 18, 2001, 66 F.R. 66270, set out as a note under section 3345 of Title 5, Government Organization and Employees.

OFFICE OF SECRETARY OF THE TREASURY; COMPENSATION

Pub. L. 105–61, title I, §116, Oct. 10, 1997, 111 Stat. 1284, provided that:

''(a)(1) Effective beginning on the date determined under paragraph (2), the compensation and other emoluments attached to the Office of Secretary of the Treasury shall be those that would then apply if Public Law 103–2 (107 Stat. 4; 31 U.S.C. 301 note) had never been enacted.

''(2) Paragraph (1) shall become effective on the later of—

''(A) the day after the date on which the individual holding the Office of Secretary of the Treasury on January 1, 1997, ceases to hold that office; or

''(B) the date of the enactment of this Act [Oct. 10, 1997].

''(3) Nothing in this subsection shall be considered to affect the compensation or emoluments due to any individual in connection with any period preceding the date determined under paragraph (2).

''(b) Subsection (b) of the first section of the public law referred to in subsection (a)(1) of this section shall not apply in the case of any appointment the consent of the Senate to which occurs on or after the date of the enactment of this Act.

''(c) This section shall not be limited (for purposes of determining whether a provision of this section applies or continues to apply) to fiscal year 1998.''

OFFICE OF THE UNDERSECRETARY FOR ENFORCEMENT

Pub. L. 108–447, div. H, title II, § 222(b)(2), Dec. 8, 2004, 118 Stat. 3245, provided that: ''The Office of the Undersecretary for Enforcement of the Department of the Treasury, established in accordance with section 103 [105] of the Treasury Department Appropriations Act, 1994 (Public Law 103–123) [set out below] is abolished, and all rights, duties, and responsibilities of that office are transferred on the date of enactment of this Act [Dec. 8, 2004] to the Office of the Undersecretary for Terrorism and Financial Crimes of the Department of the Treasury in accordance with this section [enacting section 313 of this title and amending section 311 of this title], and the amendments made by this section, except as otherwise specifically provided in this section or the amendments made by this section, or other applicable law.''

Pub. L. 103–123, title I, § 105, Oct. 28, 1993, 107 Stat. 1234, provided that: ''Notwithstanding any other provision of law, the Secretary of the Treasury shall establish an Office of the Undersecretary for Enforcement within the Department of the Treasury by no later than February 15, 1994.''

COMPENSATION AND EMOLUMENTS OF SECRETARY OF THE TREASURY AT LEVEL IN EFFECT ON JANUARY 1, 1989; ACTIONS CHALLENGING APPOINTMENT ON CONSTITUTIONAL GROUNDS

Pub. L. 103–2, Jan. 19, 1993, 107 Stat. 4, provided: ''That (a) the compensation and other emoluments attached to the office of Secretary of the Treasury shall be those in effect January 1, 1989, notwithstanding any increase in such compensation or emoluments after that date under—

''(1) the Ethics Reform Act of 1989 (Public Law 101–194) [see Tables for classification] or any other provision of law amended by that Act; or

''(2) any other provision of law, or provision which has the force and effect of law, that is enacted or becomes effective during the period beginning at noon of January 3, 1989, and ending at noon of January 3, 1995.

''(b)(1) Any person aggrieved by an action of the Secretary of the Treasury may bring a civil action in the United States District Court for the District of Columbia to contest the constitutionality of the appointment and continuance in office of the Secretary of the Treasury on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States District Court for the District of Columbia shall have exclusive jurisdiction over such a civil action, without regard to the sum or value of the matter in controversy.

''(2) Any claim challenging the constitutionality of the appointment and continuance in office of the Secretary of the Treasury on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution, in an action brought under paragraph (1) shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. It shall be the duty of the district court to advance on the docket and to expedite the disposition of any matter brought under this subsection.

''(3)(A) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order upon the validity of the appointment and continuance in office of the Secretary of the Treasury under article I, section 6, clause 2, of the Constitution, entered in any action brought under this subsection. Any such appeal shall be taken by a notice of appeal filed within 20 days after such judgment, decree, or order is entered.

''(B) The Supreme Court shall, if it has not previously ruled on the question presented by an appeal taken pursuant to subparagraph (A), accept jurisdiction over the appeal, advance the appeal on the docket, and expedite the appeal.

''(c) This joint resolution shall become effective at 12:00 p.m., January 20, 1993.''

DUTIES AND FUNCTIONS OF DEPARTMENT OF THE TREASURY

Nothing in Pub. L. 101–576 [see Short Title of 1990 Amendment note set out under section 501 of this title] to be construed to interfere with exercise of functions, duties, and responsibilities of Department of the Treasury, as in effect immediately before Nov. 15, 1990, see section 204 of Pub. L. 101–576, set out as a note under section 501 of this title.

## § 302. Treasury of the United States

The United States Government has a Treasury of the United States. The Treasury is in the Department of the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 879.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 302 ..... | 31:472. | R.S. § 3591. |

The section is substituted for the source provisions to eliminate unnecessary words and because of subsequent laws and the restatement in the revised title about the authority of the Secretary of the Treasury and coins, currency, accounts, depositaries, and public debt of the United States Government.

## § 303. Bureau of Engraving and Printing

(a) The Bureau of Engraving and Printing is a bureau in the Department of the Treasury.

(b) The head of the Bureau is the Director of the Bureau of Engraving and Printing appointed by the Secretary of the Treasury. The Director—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) reports directly to the Secretary.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 879.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 303 ..... | 31:171. | June 4, 1897, ch. 2, § 1(4th proviso on p. 18), 30 Stat. 18. |

In subsection (a), the words ''a bureau in the Department of the Treasury'' are added for clarity and consistency in chapter 3 of the revised title.

In subsection (b), the first sentence is substituted for the words before the first comma because of the source provisions restated in section 321(c) of the revised title. Clause (1) is substituted for ''subject to the direction of the Secretary of the Treasury'' for consistency in the revised title and with other titles of the United States Code. The words ''and be responsible'' are omitted as being included in ''reports directly to'' and because of section 301 of the revised title.

## § 304. United States Mint

(a) The United States Mint is a bureau in the Department of the Treasury.

(b)(1) The head of the Mint is the Director of the Mint. The Director is appointed by the President, by and with the advice and consent of the Senate. The term of the Director is 5 years. The President may remove the Director from office. On removal, the President shall send a message to the Senate giving the reasons for removal.

(2) The Director shall carry out duties and powers prescribed by the Secretary of the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 879; Pub. L. 102–390, title II, § 225(a), (b)(1), (2), Oct. 6, 1992, 106 Stat. 1629.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 304(a) ..... | 31:251(1st sentence less words after 1st comma). | R.S. § 343(less 1st sentence words after 1st comma). |
| 304(b)(1) .. | 31:251(2d sentence words before comma, last sentence). | |
| 304(b)(2) .. | 31:251(2d sentence words after comma). | |

In subsection (b)(1), the word ''head'' is substituted for ''chief officer'' in 31:251 for clarity and consistency in the revised title and with other titles of the United States Code. The word ''is'' is substituted for ''shall be denominated'' to eliminate unnecessary words.

In subsection (b)(2), the words ''The Director shall carry out duties and powers prescribed by the Secretary of the Treasury'' are substituted for ''and shall be under the general direction of the Secretary of the Treasury'' for clarity and consistency in the revised title.

AMENDMENTS

1992—Pub. L. 102–390, § 225(b)(2), substituted ''United States Mint'' for ''Bureau of the Mint'' in section catchline.

Subsec. (a). Pub. L. 102–390, § 225(a), substituted ''United States Mint'' for ''Bureau of the Mint''.

Subsec. (b)(1). Pub. L. 102–390, § 225(b)(1), substituted ''head of the Mint'' for ''head of the Bureau''.

## § 305. Federal Financing Bank

The Federal Financing Bank, established under section 4 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2283), is subject to the direction and supervision of the Secretary of the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 879.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 305 ..... | (no source). | |

The section is included to provide in subchapter I of chapter 3 of the revised title a complete list of the organizational units established by law that are in the Department of the Treasury or are subject to the direction and supervision of the Secretary of the Treasury.

## § 306. Fiscal Service

(a) The Fiscal Service is a service in the Department of the Treasury.

(b) The head of the Fiscal Service is the Fiscal Assistant Secretary appointed under section 301(d) of this title.

(c) The Fiscal Service has a—

(1) Bureau of Government Financial Operations, having as its head a Commissioner of Government Financial Operations; and

(2) Bureau of the Public Debt, having as its head a Commissioner of the Public Debt.

(d) The Secretary of the Treasury may designate another officer or employee of the Department to act as the Fiscal Assistant Secretary when the Fiscal Assistant Secretary is absent or unable to serve or when the office of Fiscal Assistant Secretary is vacant.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 879; Pub. L. 108–458, title VII, § 7801, Dec. 17, 2004, 118 Stat. 3860.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 306 ..... | 5 App. | Reorg. Plan No. 3 of 1940, eff. June 30, 1940, § 1(less (a)(7)(1st sentence), (d)), 54 Stat. 1231. |

In subsection (a), the word ''service'' is substituted for ''agency'' in section 1(a)(1)(words before last comma) of Reorganization Plan No. 3 of 1940 (eff. June 30, 1940, 54 Stat. 1232) for consistency in the revised title. The words related to the organizational units being consolidated into the Fiscal Service are omitted as executed.

In subsection (b), the text of section 1(a)(7)(2d sentence) of Reorganization Plan No. 3 of 1940 is omitted because of the source provisions restated in section 301(d) of the revised title.

In subsection (c), the words ''Office of the Fiscal Assistant Secretary'' in section 1(a)(2) of Reorganization Plan No. 3 of 1940 are omitted as unnecessary and for consistency in chapter 3 of the revised title. The words ''the Office of the Treasurer of the United States'' are omitted because this office is no longer in the Fiscal Service. See Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words ''Bureau of Government Financial Operations'' are substituted for ''Bureau of Accounts'' because of Treasury Order 229 and appropriation Acts beginning with fiscal year 1975. The text of section 1(a)(2)(last sentence) is omitted as unnecessary because of section 301 of the revised title. The words ''Commissioner of Government Financial Operations'' are substituted for ''Commissioner of Accounts and Deposits'' in section 1(a)(3) of the Reorganization Plan because of Treasury Order 229 and appropriation Acts beginning with fiscal year 1975. The words before the last comma are omitted as executed. The words related to the organizational units, in section 1(a)(4) of the Reorganization Plan, that are being consolidated into the Bureau of the Public Debt are omitted as executed.

Subsection (d) is substituted for the text of section 1(a)(7)(last sentence) of Reorganization Plan No. 3 of 1940 for consistency in the revised title. The text of section 1(a)(5) and (6), (b), and (c) is omitted as superseded by the source provisions restated in section 321 of the revised title.

REFERENCES IN TEXT

The Bureau of Government Financial Operations, referred to in subsec. (c)(1), is now known as the Financial Management Service and has as its head a Commissioner of the Financial Management Service.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–458 inserted ''or employee'' after ''another officer''.

REIMBURSEMENT OF FINANCIAL MANAGEMENT SERVICE AND BUREAU OF THE PUBLIC DEBT

Pub. L. 105–277, div. A, § 101(h) [title I], Oct. 21, 1998, 112 Stat. 2681–480, 2681–486, provided in part: ''That notwithstanding any other provisions of law, effective upon enactment [Oct. 21, 1998] and thereafter, the Bureau of the Public Debt shall be fully and directly reimbursed by the funds described in section 104 of Public Law 101–136 (103 Stat. 789) [set out below] for costs and services performed by the Bureau in the administration of such funds.''

Similar provisions were contained in Pub. L. 105–61, title I, Oct. 10, 1997, 111 Stat. 1279.

Pub. L. 103–329, title I, § 105, Sept. 30, 1994, 108 Stat. 2390, provided that: ''Notwithstanding any other provision of law, beginning in fiscal year 1995 and thereafter, the Financial Management Service (FMS) shall be reimbursed, for postage incurred by FMS to make check payments on their behalf, by: the Department of Veterans Affairs, for the mailing of Compensation and Pension benefit payments; the Department of Health and Human Services, for the mailing of Supplemental Security Income payments; and the Office of Personnel Management, for the mailing of Retirement payments. Such reimbursement shall be due beginning with checks mailed on October 1, 1994, and such reimbursement shall occur on a monthly basis.''

Pub. L. 102–393, title I, § 105, Oct. 6, 1992, 106 Stat. 1737, provided that: ''Notwithstanding any other provision of law, beginning October 1, 1992, and thereafter, the Financial Management Service (FMS) shall be reimbursed by the Internal Revenue Service (IRS) and the Department of Agriculture, National Finance Center (NFC), for the postage costs the FMS incurs to make check payments on behalf of the IRS and the NFC.''

Pub. L. 101–136, title I, § 104, Nov. 3, 1989, 103 Stat. 789, provided that: ''Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in the issuance of Social Security Trust Funds benefit payments, including all physical costs associated with payment preparation and postage costs. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision [Nov. 3, 1989] reimburse the General Fund of the Treasury for such services.''

## § 307. Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency, established under section 324 of the Revised Statutes (12 U.S.C. 1), is an office in the Department of the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 880.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 307 ..... | (no source). | |

The section is included to provide in subchapter I of chapter 3 of the revised title a complete list of the organizational units established by law that are in the Department of the Treasury or are subject to the direction and supervision of the Secretary of the Treasury. The title ''Office of the Comptroller of the Currency'' and the word ''office'' are used to reflect the name that this organizational unit of the Department of the Treasury historically has been given.

## § 308. United States Customs Service

The United States Customs Service, established under section 1 of the Act of March 3, 1927 (19 U.S.C. 2071), is a service in the Department of the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 880.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 308 ..... | (no source). | |

The section is included to provide in subchapter I of chapter 3 of the revised title a complete list of the organizational units established by law that are in the Department of the Treasury or are subject to the direction and supervision of the Secretary of the Treasury.

CHANGE OF NAME

Bureau of Customs redesignated United States Customs Service by Treasury Department Order 165–23, Apr. 4, 1973, eff. Aug. 1, 1973, 38 F.R. 13037.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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.

## § 309. Office of Thrift Supervision

The Office of Thrift Supervision established under section 3(a) of the Home Owners' Loan Act shall be an office in the Department of the Treasury.

(Added Pub. L. 101–73, title III, § 307(a)(1), Aug. 9, 1989, 103 Stat. 352; amended Pub. L. 103–272, § 4(f)(1)(A), July 5, 1994, 108 Stat. 1361.)

REFERENCES IN TEXT

Section 3(a) of the Home Owners' Loan Act, referred to in text, is classified to section 1462a(a) of Title 12, Banks and Banking.

PRIOR PROVISIONS

A prior section 309 was renumbered section 312 of this title.

AMENDMENTS

1994—Pub. L. 103–272 substituted ''section 3(a)'' for ''section 2A(a)''.

## § 310. Financial Crimes Enforcement Network

(a) IN GENERAL.—The Financial Crimes Enforcement Network established by order of the Secretary of the Treasury (Treasury Order Numbered 105–08, in this section referred to as ''FinCEN'') on April 25, 1990, shall be a bureau in the Department of the Treasury.

(b) DIRECTOR.—

(1) APPOINTMENT.—The head of FinCEN shall be the Director, who shall be appointed by the Secretary of the Treasury.

(2) DUTIES AND POWERS.—The duties and powers of the Director are as follows:

(A) Advise and make recommendations on matters relating to financial intelligence, financial criminal activities, and other financial activities to the Under Secretary of the Treasury for Enforcement.

(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

(i) Information collected by the Department of the Treasury, including report information filed under subchapter II of chapter 53 of this title (such as reports on cash transactions, foreign financial agency transactions and relationships, foreign currency transactions, exporting and importing monetary instruments, and suspicious activities), chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act.

(ii) Information regarding national and international currency flows.

(iii) Other records and data maintained by other Federal, State, local, and foreign agencies, including financial and other records developed in specific cases.

(iv) Other privately and publicly available information.

(C) Analyze and disseminate the available data in accordance with applicable legal requirements and policies and guidelines established by the Secretary of the Treasury and the Under Secretary of the Treasury for Enforcement to—

(i) identify possible criminal activity to appropriate Federal, State, local, and foreign law enforcement agencies;

(ii) support ongoing criminal financial investigations and prosecutions and related proceedings, including civil and criminal tax and forfeiture proceedings;

(iii) identify possible instances of noncompliance with subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act to Federal agencies with statutory responsibility for enforcing compliance with such provisions and other appropriate Federal regulatory agencies;

(iv) evaluate and recommend possible uses of special currency reporting requirements under section 5326;

(v) determine emerging trends and methods in money laundering and other financial crimes;

(vi) support the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism; and

(vii) support government initiatives against money laundering.

(D) Establish and maintain a financial crimes communications center to furnish law enforcement authorities with intelligence information related to emerging or ongoing investigations and undercover operations.

(E) Furnish research, analytical, and informational services to financial institutions, appropriate Federal regulatory agencies with regard to financial institutions, and appropriate Federal, State, local, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Secretary of the Treasury or the Under Secretary of the Treasury for Enforcement, in the interest of detection, prevention, and prosecution of terrorism, organized crime, money laundering, and other financial crimes.

(F) Assist Federal, State, local, and foreign law enforcement and regulatory authorities in combatting the use of informal, nonbank networks and payment and barter system mechanisms that permit the transfer of funds or the equivalent of funds without records and without compliance with criminal and tax laws.

(G) Provide computer and data support and data analysis to the Secretary of the Treasury for tracking and controlling foreign assets.

(H) Coordinate with financial intelligence units in other countries on anti-terrorism and anti-money laundering initiatives, and similar efforts.

(I) Administer the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary of the Treasury.

(J) Such other duties and powers as the Secretary of the Treasury may delegate or prescribe.

(c) REQUIREMENTS RELATING TO MAINTENANCE AND USE OF DATA BANKS.—The Secretary of the Treasury shall establish and maintain operating procedures with respect to the government-wide data access service and the financial crimes communications center maintained by FinCEN which provide—

(1) for the coordinated and efficient transmittal of information to, entry of information into, and withdrawal of information from, the data maintenance system maintained by FinCEN, including—

(A) the submission of reports through the Internet or other secure network, whenever possible;

(B) the cataloguing of information in a manner that facilitates rapid retrieval by law enforcement personnel of meaningful data; and

(C) a procedure that provides for a prompt initial review of suspicious activity reports and other reports, or such other means as the Secretary may provide, to identify information that warrants immediate action; and

(2) in accordance with section 552a of title 5 and the Right to Financial Privacy Act of 1978, appropriate standards and guidelines for determining—

(A) who is to be given access to the information maintained by FinCEN;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the data maintenance system.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for FinCEN such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005.

(2) AUTHORIZATION FOR FUNDING KEY TECHNOLOGICAL IMPROVEMENTS IN MISSION-CRITICAL FINCEN SYSTEMS.—There are authorized to be

appropriated for fiscal year 2005 the following amounts, which are authorized to remain available until expended:

(A) BSA DIRECT.—For technological improvements to provide authorized law enforcement and financial regulatory agencies with Web-based access to FinCEN data, to fully develop and implement the highly secure network required under section 362 of Public Law 107–56 to expedite the filing of, and reduce the filing costs for, financial institution reports, including suspicious activity reports, collected by FinCEN under chapter 53 and related provisions of law, and enable FinCEN to immediately alert financial institutions about suspicious activities that warrant immediate and enhanced scrutiny, and to provide and upgrade advanced information-sharing technologies to materially improve the Government's ability to exploit the information in the FinCEN data banks, $16,500,000.

(B) ADVANCED ANALYTICAL TECHNOLOGIES.—To provide advanced analytical tools needed to ensure that the data collected by FinCEN under chapter 53 and related provisions of law are utilized fully and appropriately in safeguarding financial institutions and supporting the war on terrorism, $5,000,000.

(C) DATA NETWORKING MODERNIZATION.—To improve the telecommunications infrastructure to support the improved capabilities of the FinCEN systems, $3,000,000.

(D) ENHANCED COMPLIANCE CAPABILITY.—To improve the effectiveness of the Office of Compliance in FinCEN, $3,000,000.

(E) DETECTION AND PREVENTION OF FINANCIAL CRIMES AND TERRORISM.—To provide development of, and training in the use of, technology to detect and prevent financial crimes and terrorism within and without the United States, $8,000,000.

(Added Pub. L. 107–56, title III, § 361(a)(2), Oct. 26, 2001, 115 Stat. 329; amended Pub. L. 108–458, title VI, §§ 6101, 6203(a), Dec. 17, 2004, 118 Stat. 3744, 3746.)

REFERENCES IN TEXT

Chapter 2 of title I of Public Law 91–508, referred to in subsec. (b)(2)(B)(i), (C)(iii), (I), is chapter 2 (§§ 121–129) of title I of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1116, which is classified generally to chapter 21 (§ 1951 et seq.) of Title 12, Banks and Banking. For complete classification of chapter 2 to the Code, see Tables.

Section 21 of the Federal Deposit Insurance Act, referred to in subsec. (b)(2)(B)(i), (C)(iii), (I), is classified to section 1829b of Title 12, Banks and Banking.

The Right to Financial Privacy Act of 1978, referred to in subsec. (c)(2), is title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, as amended, which is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

Section 362 of Public Law 107–56, referred to in subsec. (d)(2)(A), is set out as a note below.

PRIOR PROVISIONS

A prior section 310 was renumbered section 312 of this title.

AMENDMENTS

2004—Subsec. (c)(1), (2)(A). Pub. L. 108–458, § 6203(a), substituted ''FinCEN'' for ''the Network''.

Subsec. (d). Pub. L. 108–458, § 6101, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 6203(a) of Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

ESTABLISHMENT OF HIGHLY SECURE NETWORK

Pub. L. 107–56, title III, § 362, Oct. 26, 2001, 115 Stat. 332, as amended by Pub. L. 108–458, title VI, § 6202(m), Dec. 17, 2004, 118 Stat. 3746, provided that:

''(a) IN GENERAL.—The Secretary [of the Treasury] shall establish a highly secure network in the Financial Crimes Enforcement Network that—

''(1) allows financial institutions to file reports required under subchapter II of chapter 53 of title 31, United States Code, chapter 2 of Public Law 91–508 [probably means chapter 2 (§§ 121 to 129) of title I of Pub. L. 91–508 (12 U.S.C. 1951 et seq.)], or section 21 of the Federal Deposit Insurance Act [12 U.S.C. 1829b] through the secure network; and

''(2) provides financial institutions with alerts and other information regarding suspicious activities that warrant immediate and enhanced scrutiny.

''(b) EXPEDITED DEVELOPMENT.—The Secretary shall take such action as may be necessary to ensure that the secure network required under subsection (a) is fully operational before the end of the 9-month period beginning on the date of enactment of this Act [Oct. 26, 2001].''

## § 311. Office of Intelligence and Analysis

(a) ESTABLISHMENT.—There is established within the Department of the Treasury, the Office of Intelligence and Analysis (in this section referred to as the ''Office''), which shall—

(1) be within the Office of Terrorism and Financial Intelligence;

(2) be responsible for the receipt, analysis, collation, and dissemination of foreign intelligence and foreign counterintelligence information (within the meaning of section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) related to the operation and responsibilities of the Department of the Treasury; and

(3) have such other related duties and authorities as may be assigned to it by the Secretary, subject to the authority, direction, and control of the Secretary.

(b) ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS.—The Office shall be headed by an Assistant Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report directly to the Undersecretary of the Treasury for Terrorism and Financial Crimes.

(Added Pub. L. 108–177, title I, § 105(a)(1)(B), Dec. 13, 2003, 117 Stat. 2603; amended Pub. L. 108–447, div. H, title II, § 222(b)(1), Dec. 8, 2004, 118 Stat. 3245.)

PRIOR PROVISIONS

A prior section 311 was renumbered section 312 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–447, § 222(b)(1)(A), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (b). Pub. L. 108–447, §222(b)(1)(B), substituted ''Terrorism and Financial Crimes'' for ''Enforcement''.

CONSTRUCTION

Pub. L. 108–177, title I, §105(b), Dec. 13, 2003, 117 Stat. 2603, provided that: ''Nothing in section 311 of title 31, United States Code (as amended by subsection (a)), shall be construed to alter the authorities and responsibilities of the Director of Central Intelligence with respect to the Office of Intelligence and Analysis of the Department of the Treasury as an element of the intelligence community.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

### §312. Continuing in office

When the term of office of an officer of the Department of the Treasury ends, the officer may continue to serve until a successor is appointed and qualified.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 880, §309; renumbered §310, Pub. L. 101–73, title III, §307(a)(1), Aug. 9, 1989, 103 Stat. 352; renumbered §311, Pub. L. 107–56, title III, §361(a)(1), Oct. 26, 2001, 115 Stat. 329; renumbered §312, Pub. L. 108–177, title I, §105(a)(1)(A), Dec. 13, 2003, 117 Stat. 2603.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 309 ..... | 31:1016. | Mar. 2, 1895, ch. 187 (1st par. under heading ''Treasury Department''), 28 Stat. 844. |

In the section, the words ''When the term of office . . . ends'' are substituted for ''whose terms of office have expired or shall expire'' for consistency and to eliminate unnecessary words. The words ''may continue to serve'' are substituted for ''The Secretary of the Treasury is authorized and directed to pay'', ''and who have been performing or shall perform the duties of their respective offices after the date of such expiration'', and ''the salary, compensation, fees, or emoluments authorized or provided by law in each case for the respective incumbents of the offices'' because of 25 Op. Atty. Gen. 636 (1906) and for consistency with other titles of the United States Code. The words ''until a successor is appointed and qualified'' are substituted for ''before the appointment and qualification of their successors'' and 31:1016 (last sentence) for consistency with other titles of the Code.

AMENDMENTS

2003—Pub. L. 108–177 renumbered section 311 of this title as this section.

2001—Pub. L. 107–56 renumbered section 310 of this title as this section.

1989—Pub. L. 101–73 renumbered section 309 of this title as this section.

### §313. Terrorism and Financial Intelligence

(a) OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of Terrorism and Financial Intelligence (in this section referred to as ''OTFI''), which shall be the successor to any such office in existence on the date of enactment of this section.

(2) LEADERSHIP.—

(A) UNDERSECRETARY.—There is established within the Department of the Treasury, the Office of the Undersecretary for Terrorism and Financial Crimes, who shall serve as the head of the OTFI, and shall report to the Secretary of the Treasury through the Deputy Secretary of the Treasury. The Office of the Undersecretary for Terrorism and Financial Crimes shall be the successor to the Office of the Undersecretary for Enforcement.

(B) APPOINTMENT.—The Undersecretary for Terrorism and Financial Crimes shall be appointed by the President, by and with the advice and consent of the Senate.

(3) ASSISTANT SECRETARY FOR TERRORIST FINANCING.—

(A) ESTABLISHMENT.—There is established within the OTFI the position of Assistant Secretary for Terrorist Financing.

(B) APPOINTMENT.—The Assistant Secretary for Terrorist Financing shall be appointed by the President, by and with the advice and consent of the Senate.

(C) DUTIES.—The Assistant Secretary for Terrorist Financing shall be responsible for formulating and coordinating the counter terrorist financing and anti-money laundering efforts of the Department of the Treasury, and shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(4) FUNCTIONS.—The functions of the OTFI include providing policy, strategic, and operational direction to the Department on issues relating to—

(A) implementation of titles I and II of the Bank Secrecy Act;

(B) United States economic sanctions programs;

(C) combating terrorist financing;

(D) combating financial crimes, including money laundering, counterfeiting, and other offenses threatening the integrity of the banking and financial systems;

(E) other enforcement matters;

(F) those intelligence analysis and coordination functions described in subsection (b); and

(G) the security functions and programs of the Department of the Treasury.

(5) REPORTS TO CONGRESS ON PROPOSED MEASURES.—The Undersecretary for Terrorism and Financial Crimes and the Assistant Secretary for Terrorist Financing shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 72 hours after proposing by rule, regulation, order, or otherwise, any measure to reorganize the structure of the Department for combatting money laundering and terrorist financing, before any such proposal becomes effective.

(6) OTHER OFFICES WITHIN OTFI.—Notwithstanding any other provision of law, the following offices of the Department of the Treasury shall be within the OTFI:

(A) The Office of the Assistant Secretary for Intelligence and Analysis, which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(B) The Office of the Assistant Secretary for Terrorist Financing, which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(C) The Office of Foreign Assets Control (in this section referred to as the ''OFAC''), which shall report directly to the Undersecretary for Terrorism and Financial Crimes.

(D) The Executive Office for Asset Forfeiture, which shall report to the Undersecretary for Terrorism and Financial Crimes.

(E) The Office of Intelligence and Analysis (in this section referred to as the ''OIA''), which shall report to the Assistant Secretary for Intelligence and Analysis.

(F) The Office of Terrorist Financing, which shall report to the Assistant Secretary for Terrorist Financing.

(7) FINCEN.—

(A) REPORTING TO UNDERSECRETARY.—The Financial Crimes Enforcement Network (in this section referred to as ''FinCEN''), a bureau of the Department of the Treasury, shall report to the Undersecretary for Terrorism and Financial Crimes. The Undersecretary for Terrorism and Financial Crimes may not redelegate its reporting authority over FinCEN.

(B) OFFICE OF COMPLIANCE.—There is established within FinCEN, an Office of Compliance.

(b) OFFICE OF INTELLIGENCE AND ANALYSIS.—

(1) ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS.—The Assistant Secretary for Intelligence and Analysis shall head the OIA.

(2) RESPONSIBILITIES.—The OIA shall be responsible for the receipt, analysis, collation, and dissemination of intelligence and counterintelligence information related to the operations and responsibilities of the entire Department of the Treasury, including all components and bureaus of the Department.

(3) PRIMARY FUNCTIONS.—The primary functions of the OIA are—

(A) to build a robust analytical capability on terrorist finance by coordinating and overseeing work involving intelligence analysts in all components of the Department of the Treasury, focusing on the highest priorities of the Department, as well as ensuring that the existing intelligence needs of the OFAC and FinCEN are met; and

(B) to provide intelligence support to senior officials of the Department on a wide range of international economic and other relevant issues.

(4) OTHER FUNCTIONS AND DUTIES.—The OIA shall—

(A) carry out the intelligence support functions that are assigned, to the Office of Intelligence Support under section 311 (pursuant to section 105 of the Intelligence Authorization Act for Fiscal Year 2004);

(B) serve in a liaison capacity with the intelligence community; and

(C) represent the Department in various intelligence related activities.

(5) DUTIES OF THE ASSISTANT SECRETARY.—The Assistant Secretary for Intelligence and Analysis shall serve as the Senior Officer Intelligence Community, and shall represent the Department in intelligence community fora, including the National Foreign Intelligence Board committees and the Intelligence Community Management Staff.

(c) DELEGATION.—To the extent that any authorities, powers, and responsibilities over enforcement matters delegated to the Undersecretary for Terrorism and Financial Crimes, or the positions of Assistant Secretary for Terrorism and Financial Crimes, Assistant Secretary for Enforcement and Operations, or Deputy Assistant Secretary for Terrorist Financing and Financial Crimes, have not been transferred to the Department of Homeland Security, the Department of Justice, or the Assistant Secretary for Tax Policy (related to the customs revenue functions of the Bureau of Alcohol and Tobacco Tax and Trade), those remaining authorities, powers, and responsibilities are delegated to the Undersecretary for Terrorism and Financial Crimes.

(d) DESIGNATION AS ENFORCEMENT ORGANIZATION.—The Office of Terrorism and Financial Intelligence (including any components thereof) is designated as a law enforcement organization of the Department of the Treasury for purposes of section 9703 of title 31, United States Code, and other relevant authorities.

(e) USE OF EXISTING RESOURCES.—The Secretary may employ personnel, facilities, and other Department of the Treasury resources available to the Secretary on the date of enactment of this section in carrying out this section, except as otherwise prohibited by law.

(f) REFERENCES.—References in this section to the ''Secretary'', ''Undersecretary'', ''Deputy Secretary'', ''Deputy Assistant Secretary'', ''Office'', ''Assistant Secretary'', and ''Department'' are references to positions and offices of the Department of the Treasury, unless otherwise specified.

(Added Pub. L. 108–447, div. H, title II, § 222(a), Dec. 8, 2004, 118 Stat. 3242.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a)(1) and (e), is the date of the enactment of Pub. L. 108–447, which was approved Dec. 8, 2004.

For the Bank Secrecy Act, referred to in subsec. (a)(4)(A), see Short Title note set out under section 1951 of Title 12, Banks and Banking, and Tables.

Section 105 of the Intelligence Authorization Act for Fiscal Year 2004, referred to in subsec. (b)(4)(A), is section 105 of Pub. L. 108–177, title I, Dec. 13, 2003, 117 Stat. 2603, which enacted section 311 of this title. For complete classification of section 105 to the Code, see Tables.

Section 9703 of title 31, referred to in subsec. (d), probably means the section 9703 of this title added by section 638(b)(1) of Pub. L. 102–393.

CHANGE OF NAME

Reference to Community Management Staff deemed to be a reference to the staff of the Office of the Direc-

tor of National Intelligence, see section 1081(c) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

SUBCHAPTER II—ADMINISTRATIVE

**§ 321. General authority of the Secretary**

(a) The Secretary of the Treasury shall—

(1) prepare plans for improving and managing receipts of the United States Government and managing the public debt;

(2) carry out services related to finances that the Secretary is required to perform;

(3) issue warrants for money drawn on the Treasury consistent with appropriations;

(4) mint coins, engrave and print currency and security documents, and refine and assay bullion, and may strike medals;

(5) prescribe regulations that the Secretary considers best calculated to promote the public convenience and security, and to protect the Government and individuals from fraud and loss, that apply to anyone who may—

(A) receive for the Government, Treasury notes, United States notes, or other Government securities; or

(B) be engaged or employed in preparing and issuing those notes or securities;

(6) collect receipts;

(7) with a view to prosecuting persons, take steps to discover fraud and attempted fraud involving receipts and decide on ways to prevent and detect fraud; and

(8) maintain separate accounts of taxes received in each State, territory, and possession of the United States, and collection district, with each account listing—

(A) each kind of tax;

(B) the amount of each tax; and

(C) the money paid as pay and allowances to officers and employees of the Department collecting taxes in that State, territory, possession, or district.

(b) The Secretary may—

(1) prescribe regulations to carry out the duties and powers of the Secretary;

(2) delegate duties and powers of the Secretary to another officer or employee of the Department of the Treasury;

(3) transfer within the Department the records, property, officers, employees, and unexpended balances of appropriations, allocations, and amounts of the Department that the Secretary considers necessary to carry out a delegation made under clause (2) of this subsection;

(4) detail, in addition to details authorized under another law, not more than 6 officers and employees of the Department at any one time to enforce the laws related to the Department, except that of those 6 officers and employees not more than 4 officers and employees—

(A) paid from the appropriations for the collection of customs may be so detailed;

(B) paid from the appropriations for internal revenue may be so detailed; and

(C) paid from the appropriations for suppressing counterfeiting and other crimes may be so detailed;

(5) authorize, at rates and under conditions prescribed by the Secretary, the private use of telephone lines controlled by the Department when the use does not interfere with Department business;

(6) buy arms and ammunition required by officers and employees of the Department in carrying out their duties and powers; and

(7) notwithstanding any other provision of law, fulfill any requirement to issue a report on the financial condition of any fund on the books of the Treasury by including the required information in a consolidated report, except that information with respect to a specific fund shall be separately reported if the Secretary determines that the consolidation of such information would result in an unwarranted delay in the availability of such information.

(c) Duties and powers of officers and employees of the Department are vested in the Secretary except duties and powers—

(1) vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Secretary;

(2) of the Comptroller of the Currency; and

(3) of the Director of the Office of Thrift Supervision;

(d)(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.

(3) The Secretary of the Treasury may invest and reinvest the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Income accruing from the securities, and from any other property accepted under paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed on order of the Secretary of the Treasury for purposes as nearly as possible in accordance with the terms of the gifts or bequests.

(4) The Secretary of the Treasury shall, not less frequently than annually, make a public disclosure of the amount (and sources) of the gifts and bequests received under this subsection, and the purposes for which amounts in the separate fund established under this subsection are expended.

(e) CERTAIN REORGANIZATION PROHIBITED.—The Secretary of the Treasury may not merge or consolidate the Office of Thrift Supervision, or any of the functions or responsibilities of the Of-

fice or the Director of such office, with the Office of the Comptroller of the Currency or the Comptroller of the Currency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 880; Pub. L. 98–369, div. A, title IV, § 445, July 18, 1984, 98 Stat. 816; Pub. L. 101–73, title III, § 307(b), (d), Aug. 9, 1989, 103 Stat. 353; Pub. L. 104–66, title I, § 1132(b), Dec. 21, 1995, 109 Stat. 725.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 321(a)(1)–(3). | 31:1002(less words between 1st and 2d semicolons and between 4th and 5th semicolons). | R.S. § 248(less words between 4th and 5th semicolons). |
| 321(a)(4) .. | (no source). | |
| 321(a)(5) .. | 31:427. | R.S. § 251(words after ''Treasury'' and before ''shall prescribe forms of entries''). |
| 321(a)(6) .. | 31:1002(words between 1st and 2d semicolons). | |
| 321(a)(7) .. | 31:1011. | R.S. § 376; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759. |
| 321(a)(8) .. | 31:1024. | R.S. §§ 239, 261; Feb. 18, 1875, ch. 80, § 1(3d complete par. on p. 317), 18 Stat. 317; Aug. 7, 1946, ch. 770, § 1(48), 60 Stat. 870. |
| 321(b)(1) .. | 31:127. | Oct. 9, 1940, ch. 796, § 5, 54 Stat. 1087. |
| | 31:317f. | Dec. 18, 1942, ch. 767, § 7, 56 Stat. 1066. |
| | 31:397. | July 23, 1965, Pub. L. 89–81, § 107, 79 Stat. 255. |
| | 31:528(d). | R.S. § 3646(d); July 8, 1937, ch. 444, § 9, 50 Stat. 483; restated Dec. 3, 1945, ch. 515, § 1, 59 Stat. 593. |
| | 31:564. | Nov. 21, 1941, ch. 489, § 5, 55 Stat. 778; Dec. 22, 1974, Pub. L. 93–539, § 1(a) (related to § 4), 88 Stat. 1738. |
| | 31:1053. | Oct. 26, 1970, Pub. L. 91–508, § 204, 84 Stat. 1120. |
| | 31:1262(a). | Oct. 20, 1972, Pub. L. 92–512, § 142(a), 86 Stat. 935. |
| 321(b)(2), (3). | 31:1001(note). | Reorg. Plan No. 26 of 1950, eff. July 31, 1950, §§ 2, 4, 64 Stat. 1281. |
| 321(b)(4) .. | 31:1017. | June 12, 1917, ch. 27, § 1(4th par. under heading ''Miscellaneous Objects, Treasury Department''), 40 Stat. 118; Mar. 4, 1921, ch. 161, § 1(1st par. under heading ''Miscellaneous Objects, Treasury Department''), 41 Stat. 1374. |
| 321(b)(5) .. | 31:486. | Apr. 28, 1904, ch. 1762, § 1(proviso immediately before heading ''Revenue-Cutter Service''), 33 Stat. 460. |
| 321(b)(6) .. | 31:1023(a). | June 1, 1955, ch. 119, § 1(a), 69 Stat. 82. |
| 321(c) ..... | 31:1001(note). | Reorg. Plan No. 26 of 1950, eff. July 31, 1950, § 1(a), (b), 64 Stat. 1280. |

In subsection (a)(1)–(3), the words between the 2d and 3d semicolons are omitted as superseded by section 3512 of the revised title.

In subsection (a)(1), the word ''digest'' is omitted as being included in ''prepare''. The word ''receipts'' is substituted for ''revenue'', and the words ''managing the public debt'' are substituted for ''for the support of the public credit'', for consistency in the revised title.

In subsection (a)(2), the words ''carry out'' are substituted for ''generally shall perform'' for consistency in the revised title and with other titles of the United States Code. The words ''that the Secretary is required'' are substituted for ''as he shall be directed'' because of the restatement.

In subsection (a)(3), the word ''issue'' is substituted for ''shall grant'' for consistency. The words ''under limitations herein established or to be provided'' are omitted as unnecessary. The word ''consistent'' is substituted for ''in pursuance of'', and the words ''by law'' are omitted, for consistency.

Subsection (a)(4) is included to reflect all the major duties of the Secretary of the Treasury. See chapter 51 of the revised title.

In subsection (a)(5), before subclause (A), the words ''prescribe regulations'' are substituted for ''make and issue from time to time such instructions and regulations'' for consistency in the revised title and to eliminate unnecessary words. The words ''applicable to anyone'' are substituted for ''to the several collectors, receivers, depositaries, officers, and others'' for clarity and to eliminate unnecessary words. In subclause (A), the words ''for the Government'' are inserted because section 8 of the Act of June 30, 1864 (ch. 172, 13 Stat. 221), from which section 251 of the Revised Statutes is derived, used the phrase ''in behalf of the United States''. In subclause (B), the words ''those notes and securities'' are substituted for ''the same'' for clarity.

In subsection (a)(6), the word ''collect'' is substituted for ''superintend the collection'' because of the source provisions restated in section 321(c) of the revised title. The word ''receipts'' is substituted for ''revenue'' for consistency in the revised title.

In subsection (a)(7), the words ''Secretary of the Treasury'' are substituted for ''General Counsel of the Department of the Treasury, under the direction of the Secretary of the Treasury'' because of the source provisions restated in subsection (c) of this section. The words ''with a view to prosecuting persons'' are substituted for ''for the prosecution of persons charged with the commission thereof'' for clarity. The words ''take steps to discover fraud and attempted fraud'' are substituted for ''take cognizance of all frauds or attempted frauds'' for clarity. The words ''involving receipts'' are substituted for ''upon the revenue'' for consistency in the revised title. The words ''decide on ways to prevent and detect fraud'' are substituted for ''exercise a general supervision over the measures for their prevention and detection'' for clarity and to eliminate unnecessary words.

In subsection (a)(8), before subclause (A), the word ''maintain'' is substituted for ''shall be kept'' for consistency. The words ''all moneys'' and ''internal'' are omitted as unnecessary because of the restatement. The words ''duties or'' are omitted as being included in ''taxes''. The word ''possession'' is added for consistency in the revised title and with other titles of the Code. The word ''listing'' is substituted for ''so as to exhibit, as far as may be'' for clarity and to eliminate unnecessary words. In subclause (A), the word ''kind'' is substituted for ''species'' for consistency. The words ''that shall accrue'' are omitted as surplus. In subclause (B), the words ''each tax'' are substituted for ''each source of revenue'' for clarity. In subclause (C), the word ''pay'' is substituted for ''compensation'' for consistency. The words ''officers and employees'' are substituted for ''collectors and deputy collectors, inspectors, and other officers'' for consistency and to eliminate unnecessary words.

Subsection (b)(1) is included as a general statement of the authority of the Secretary of the Treasury to prescribe regulations to avoid repeating each time specific authority of the Secretary to carry out certain provisions of law.

In subsection (b)(2), the words ''make such provisions'' in 31:1001(note) are omitted as unnecessary. The words ''or by any agency'' are omitted and the words ''duties and powers'' are substituted for ''function'', for consistency in the revised title and with other titles of the Code. The words ''including any function transferred to the Secretary by the provisions of this reorganization plan'' are omitted as executed.

In subsection (b)(3), the word ''effect '' is omitted as unnecessary. The words ''(available or to be made available)'' are omitted as surplus. The words ''delegation made under clause (2) of this subsection'' are substituted for ''provisions of this reorganization plan'' because the only provision of Reorganization Plan No. 26 of 1950 (eff. July 31, 1950, 64 Stat. 1281) that continues to have legal effect is section 2 that is restated in clause (2).

In subsection (b)(4), before subclause (A), the word ''detail'' is substituted for ''to use for, and in connection with'' to eliminate unnecessary words. The words ''in addition to details authorized under another law'' are substituted for 31:1017(last sentence) to eliminate unnecessary words and because subsequent laws would also provide additional authority to detail. The words ''and the several branches of the public service under its control'' are omitted as being included in ''Department''. The words ''officers and employees'' are substituted for ''persons'' for clarity and consistency in the revised title. In subclause (B), the words ''agents or from the appropriation for the foregoing purpose'' are omitted as unnecessary because of the restatement.

In subsection (b)(5), the words ''the proceeds thereof to be accounted for and paid into the Treasury of the United States'' are omitted as unnecessary because of section 3302 of the revised title.

In subsection (b)(6), the word ''buy'' is substituted for ''make expenditures'' for consistency in the revised title and with other titles of the Code. The words ''officers or employees'' are substituted for ''civilian employees'', and the words ''in carrying out their duties and powers'' are substituted for ''in the performance of their official duties'', for consistency in the revised title and with other titles of the Code.

AMENDMENTS

1995—Subsec. (b)(7). Pub. L. 104–66 added par. (7).

1989—Subsec. (c)(3). Pub. L. 101–73, § 307(b), added par. (3).

Subsec. (e). Pub. L. 101–73, § 307(d), added subsec. (e).

1984—Subsec. (d). Pub. L. 98–369 added subsec. (d).

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of the Treasury, see Parts 1, 2, and 15 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

USE OF AIRCRAFT IN EMERGENCY LAW ENFORCEMENT SUPPORT

Pub. L. 104–52, title I, § 107, Nov. 19, 1995, 109 Stat. 476, provided that: ''The Secretary of the Treasury is authorized in fiscal year 1996 and hereafter, to use Treasury Department aircraft, with or without reimbursement, to assist bureaus within the Department of the Treasury or other Federal agencies, Departments or offices outside of the Department of the Treasury to provide emergency law enforcement support to protect human life, property, public health, or safety.''

## § 322. Working capital fund

(a) The Department of the Treasury has a working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services of the Department that the Secretary of the Treasury, with the approval of the Director of the Office of Management and Budget, decides may be carried out more advantageously and more economically as central services.

(b) Amounts in the fund remain available until expended. Amounts may be appropriated to the fund.

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) to the extent transferred to the fund by the Secretary, the reasonable value of supply inventories, equipment, and other assets and inventories on order for providing services out of amounts in the fund, less related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, or credited with advance payments, from amounts available to the Department or from other sources, for supplies and services at rates that will equal the expenses of operation, including accrual of annual leave and the depreciation of plant and equipment. Amounts the Secretary decides are in excess of the needs of the fund shall be deposited at the end of each fiscal year in the Treasury as miscellaneous receipts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 881; Pub. L. 98–369, div. A, title IV, § 442, July 18, 1984, 98 Stat. 816.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 322(a) ..... | 31:1033(1st sentence less words between 1st and 3d commas, 2d sentence 1st–9th words). | Dec. 31, 1970, Pub. L. 91–614, § 401, 84 Stat. 1846. |
| 322(b) ..... | 31:1033(1st sentence words between 1st and 3d commas, last sentence). | |
| 322(c) ..... | 31:1033(2d sentence less 1st–9th words, 4th sentence). | |
| 322(d) ..... | 31:1033(3d, 5th sentences). | |

In subsection (a), the words ''Amounts in the fund are available'' are added because of the restatement.

In subsection (b), the words ''Amounts in the fund remain available until expended'' are substituted for ''shall be available, without fiscal year limitation'' for consistency in the revised title.

In subsection (c)(1), the words ''amounts appropriated to the fund'' are substituted for ''any appropriations made for the purpose of providing capital'' to eliminate unnecessary words. In clause (2), the word ''reasonable'' is substituted for ''fair and reasonable'' because it is inclusive.

In subsection (d), the words ''other Federal agencies'' are omitted because they are included in ''other sources''.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–369 struck out provision placing a $1,000,000 limitation on fund.

DEPARTMENT OF THE TREASURY FRANCHISE FUND

Pub. L. 104–208, div. A, title I, § 101(f) [title I], Sept. 30, 1996, 110 Stat. 3009–314, 3009–316, as amended by Pub. L. 106–554, § 1(a)(3) [title I, § 120], Dec. 21, 2000, 114 Stat. 2763, 2763A–135; Pub. L. 108–7, div. J, title I, § 123, Feb. 20, 2003, 117 Stat. 439; Pub. L. 108–447, div. H, title II, § 219, Dec. 8, 2004, 118 Stat. 3242, provided in part that: ''Hereafter There [sic] is established in the Treasury a franchise fund to be available without fiscal year limitation, for expenses and equipment necessary for the maintenance and operation of such financial and administrative support services as the Secretary determines may be performed more advantageously as central services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of providing capital, shall be used to capitalize such fund: *Provided further*, That such fund shall be reimbursed or credited with the payments, including advanced payments, from applicable appropriations and funds available to the Department and other Federal agencies for which such administrative and financial services are performed, at

rates which will recover all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automatic Data Processing (ADP) software and systems, and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Treasury financial management, ADP, and other support systems: *Provided further*, That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury.''

[Amendments by Pub. L. 108–447 to Pub. L. 104–208, § 101(f) [title I], set out above, were executed to reflect the probable intent of Congress, notwithstanding errors in the directory language.]

## § 323. Investment of operating cash

(a) To manage United States cash, the Secretary of the Treasury may invest any part of the operating cash of the Treasury for not more than 90 days. The Secretary may invest the operating cash of the Treasury in—

(1) obligations of depositories maintaining Treasury tax and loan accounts secured by pledged collateral acceptable to the Secretary;

(2) obligations of the United States Government; and

(3) repurchase agreements with parties acceptable to the Secretary.

(b) Subsection (a) of this section does not require the Secretary to invest a cash balance held in a particular account.

(c) The Secretary shall consider the prevailing market in prescribing rates of interest for investments under subsection (a)(1) of this section.

(d)(1) The Secretary of the Treasury shall submit each fiscal year to the appropriate committees a report detailing the investment of operating cash under subsection (a) for the preceding fiscal year. The report shall describe the Secretary's consideration of risks associated with investments and the actions taken to manage such risks.

(2) For purposes of paragraph (1), the term ''appropriate committees'' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 882; Pub. L. 110–351, title V, § 502, Oct. 7, 2008, 122 Stat. 3980.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 323(a) ..... | 31:1038(1st sentence less 1st, 2d provisos). | Oct. 28, 1977, Pub. L. 95–147, § 1, 91 Stat. 1227. |
| 323(b) ..... | 31:1038(1st, 2d provisos). | |
| 323(c) ..... | 31:1038(last sentence). | |

In subsection (a), before clause (1), the words ''To manage United States cash'' are substituted for ''for cash management purposes'' for clarity. In clause (1), the words ''as security for tax and loan accounts'' are omitted as unnecessary. In clause (2), the words ''agencies of the United States'' are omitted as being included in ''the Government''.

In subsection (c), the words ''Investments in obligations of depositaries maintaining such accounts'' and ''rates of interest'' (the 2d time they appear) are omitted as unnecessary because of the restatement.

AMENDMENTS

2008—Pub. L. 110–351 amended section generally. Prior to amendment, section related to investment of operating cash.

## § 324. Disposing and extending the maturity of obligations

(a) The Secretary of the Treasury may—

(1) dispose of obligations—

(A) acquired by the Secretary for the United States Government; or

(B) delivered by an executive agency; and

(2) make arrangements to extend the maturity of those obligations.

(b) The Secretary may dispose or extend the maturity of obligations under subsection (a) of this section in the way, in amounts, at prices (for cash, obligations, property, or a combination of cash, obligations, or property), and on conditions the Secretary considers advisable and in the public interest.

(c) The authority under this section is in addition to authority under another law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 882; Pub. L. 98–369, div. A, title IV, § 444, July 18, 1984, 98 Stat. 816.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 324(a) ..... | 31:741a(a)(1st sentence words before 9th comma). | Apr. 3, 1945, ch. 51, § 5, 59 Stat. 48. |
| 324(b) ..... | 31:741a(a)(1st sentence words after 9th comma, last sentence). | |
| 324(c) ..... | 31:741a(b). | |

In the section, the words ''sell, exchange'' are omitted as being included in ''dispose''. The word ''obligations'' is substituted for ''bonds, notes, or other securities'' for consistency in the revised title. The words ''under judicial process or otherwise'' are omitted as unnecessary.

In subsection (a), before clause (1), the words ''Notwithstanding the provisions of section 302 of title 40'' are omitted as unnecessary and because section 302 was repealed by section 1(95) of the Act of October 31, 1951 (ch. 654, 65 Stat. 705). In clause (2), the words ''those obligations'' are substituted for ''thereof'' for clarity.

In subsection (b), the words ''The Secretary may dispose or extend the maturity of obligations under subsection (a) of this section'' are added for clarity and because of the restatement. The words ''combination of cash, obligations, or property'' are substituted for ''or any combination thereof'' for clarity. The words ''terms and conditions'' are omitted as being included in ''on conditions''. The words ''under the authority of this section'' are omitted as unnecessary because of the restatement.

Subsection (c) is substituted for 31:741a(b) to eliminate unnecessary words and for consistency in the revised title.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–369 struck out provision that the Secretary could not dispose of obligations of

one issuer, held by the Secretary at one time, having on the date of disposal a total face or par value of more than $1,000,000 or, if no-par obligations, a stated or book value of more than $1,000,000.

### § 325. International affairs authorization

(a) Under regulations prescribed by the Secretary of the Treasury, the Secretary may provide officers and employees of the Department of the Treasury carrying out international affairs duties and powers of the Department with allowances and benefits comparable to those provided under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.).

(b) The following amounts may be appropriated to the Secretary for the fiscal year ending September 30, 1982:

(1) not more than $22,896,000 to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses).

(2) not more than $1,000,000 for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5305, or corresponding prior provision of such title), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

(c) Necessary amounts may be appropriated to the Secretary for each fiscal year beginning after September 30, 1982—

(1) to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses);

(2) for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5303), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 882; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(3)(D)], Nov. 5, 1990, 104 Stat. 1427, 1439.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 325(a) ..... | 31:822a(d). | Jan. 30, 1934, ch. 6, 48 Stat. 337, § 10(d); added Nov. 8, 1978, Pub. L. 95–612, § 2, 92 Stat. 3091; Oct. 17, 1980, Pub. L. 96–465, § 2206(f), 94 Stat. 2163. |
| 325(b), (c) | (uncodified). | Nov. 8, 1978, Pub. L. 95–612, § 5, 92 Stat. 3092; Aug. 8, 1979, Pub. L. 96–47, 93 Stat. 344; Aug. 13, 1981, Pub. L. 97–35, § 382(a), 95 Stat. 432. |

In the section, the words ''international affairs duties and powers'' are substituted for ''international affairs functions'' for consistency in the revised title and with other titles of the United States Code. The words ''officers and employees'' are substituted for ''personnel'' and ''employees'' as being more precise.

In subsection (b), before clause (1), the words ''fiscal year ending September 30, 1982'' are substituted for ''fiscal year 1982'' for consistency in the revised title and with other titles of the Code. In clause (2), the word ''pay'' is substituted for ''salaries'' for consistency in the revised title and with other titles of the Code. The word ''departmental'' is substituted for ''agency'' because of the source provisions restated in section 321 of the revised title. The words ''those pay increases'' are substituted for ''thereto'' for clarity.

Subsection (c) is substituted for the words ''and such sums as may be necessary for each fiscal year thereafter'' both times they appear.

AMENDMENTS

1990—Subsec. (b)(2)(A). Pub. L. 101–509 substituted ''(except section 5305, or corresponding prior provision of such title)'' for ''(except section 5303)''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

STUDY ON ROLE OF GOLD IN DOMESTIC AND INTERNATIONAL MONETARY SYSTEMS; ESTABLISHMENT OF COMMISSION; REPORT TO CONGRESS; AVAILABILITY OF APPROPRIATIONS

Pub. L. 96–389, § 10, Oct. 7, 1980, 94 Stat. 1555, as amended Pub. L. 97–47, § 2, Sept. 30, 1981, 95 Stat. 954, provided that the Secretary of the Treasury establish and chair a commission consisting of three members of the Board of Governors of the Federal Reserve System, two members of the Council of Economic Advisors, and four private citizens with business, finance, or academic backgrounds, to be designated by the Secretary, and one majority and one minority member each from the Joint Economic Committee, the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs to be designated by the Speaker of the House and the President of the Senate, respectively. The commission was to conduct a study to assess and make recommendations with regard to the policy of the United States Government concerning the role of gold in domestic and international monetary systems, and transmit to Congress a report containing its findings and recommendations not later than March 31, 1982. Sums appropriated pursuant to section 5 of Public Law 95–612 [Pub. L. 95–612, § 5, Nov. 8, 1978, 92 Stat. 3092, which was not classified to the Code] were made available to the commission to carry out its functions.

### § 326. Availability of appropriations for certain expenses

(a) Under regulations prescribed by the Secretary of the Treasury, an appropriation for the Department of the Treasury available to pay travel expenses also is available to pay expenses to attend meetings of organizations related to the function or activity for which the appropriation is made.

(b) The Secretary may approve reimbursement to agents on protective missions for subsistence expenses authorized by law without regard to rates and amounts established under section 5702 of title 5.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 883; Pub. L. 99–234, title I, § 107(e), Jan. 2, 1986, 99 Stat. 1759.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code* | *Source (Statutes at Large)* |
|---|---|---|
| 326(a) ..... | 31:1031. | June 1, 1955, ch. 113, § 102, 69 Stat. 76. |
| 326(b) ..... | 31:1032. | Sept. 29, 1969, Pub. L. 91–74, § 102(1st par.), 83 Stat. 118. |

In subsection (a), the words ''On and after June 1, 1955,'' are omitted as executed.

In subsection (b), the words ''On and after September 29, 1969,'' are omitted as executed.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–234 substituted ''rates and amounts'' for ''rates''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–234 effective (1) on the effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99–234, set out as a note under section 5701 of Title 5, Government Organization and Employees.

## § 327. Advancements and reimbursements for services

(a) In this section, ''service'' includes service provided in—

(1) disbursing and receiving amounts.

(2) servicing bonds.

(3) making accounts.

(4) maintaining bank accounts.

(b) When the Secretary of the Treasury provides a service for an agency (except the Department of the Treasury) for which amounts have not been appropriated to the Department, the agency may advance for credit or reimburse the Department the amounts necessary to provide the service. Notwithstanding section 3302 of this title, amounts advanced or reimbursed may be credited to the appropriation of the Department that is current when the service is provided.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 883.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code* | *Source (Statutes at Large)* |
|---|---|---|
| 327(a) ..... | 31:157(c)(2). | Aug. 14, 1950, ch. 705, 64 Stat. 440. |
| 327(b) ..... | 31:157(a)–(c)(1). | |

In the section, the word ''amounts'' is substituted for ''funds'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''shall not be limited to'' are omitted as surplus. The words ''disbursing and receiving'' are substituted for ''collection and disbursement'', the word ''making'' is substituted for ''rendition of'', and the word ''maintaining'' is substituted for ''keeping'', for consistency in the revised title. The word ''checking'' is omitted as being included in ''bank''.

In subsection (b), the words ''When the Secretary of the Treasury provides a service'' are substituted for ''When any service authorized by law and directed by the Secretary of the Treasury is performed or to be performed'' to eliminate unnecessary words. The words ''by the Fiscal Service or the Office of the Treasurer of the United States of the Department of the Treasury'' are omitted because of the source provisions restated in section 321 of the revised title. The words ''agency (except the Department of the Treasury)'' are substituted for 31:157(c)(1) for consistency in the revised title and with other titles of the Code. The word ''reimburse'' is substituted for ''pay'', and the words ''advanced or reimbursed'' are substituted for ''transferred'', for clarity and because of the restatement.

## § 328. Accounts and payments of former disbursing officials

(a) If a chief disbursing official or a director of a disbursing center of the Department of the Treasury dies, resigns, or leaves office, the deputy chief disbursing official or the deputy director of the disbursing center designated by the Secretary of the Treasury may continue the accounts and payments in the name of the former disbursing official or director through the last day of the 2d month after the month in which the death, resignation, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary shall honor checks signed in the name of the former disbursing official or director in the same way as if the former disbursing official or director had continued in office.

(b) Only the deputy chief or deputy director designated under subsection (a) of this section is liable for actions taken in the name of the former disbursing official under subsection (a).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 883.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code* | *Source (Statutes at Large)* |
|---|---|---|
| 328(a) ..... | 31:1014(1st, 2d sentences). | Dec. 24, 1942, ch. 821, 56 Stat. 1086; restated Aug. 1, 1947, ch. 438, 61 Stat. 717; June 6, 1972, Pub. L. 92–310, § 231(dd), 86 Stat. 213. |
| 328(b) ..... | 31:1014(last sentence). | |

In subsection (a), the words ''director of a disbursing center'' are substituted for ''any regional disbursing officer of the Fiscal Service, Treasury Department'' to reflect the title of the position now presently authorized. The words ''dies, resigns, or leaves office'' are substituted for ''In case of the death or of the resignation or separation from office'' for consistency with other titles of the United States Code. The words ''designated by an official of the Treasury Department authorized by the Secretary of the Treasury to make such designation'' are omitted as unnecessary because of the source provisions restated in section 321 of the revised title. The word ''through'' is substituted for ''for a period of time not to extend beyond'' to eliminate unnecessary words. The words ''as provided by law'' are substituted for ''in the General Accounting Office'', for consistency with other titles of the Code. The word ''Secretary'' is substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321 of the revised title.

Subsection (b) is substituted for 31:1014(last sentence) for clarity and to eliminate unnecessary words.

## § 329. Limitations on outside activities

(a)(1) The Secretary of the Treasury and the Treasurer may not—

(A) be involved in trade or commerce;

(B) own any part of a vessel (except a pleasure vessel);

(C) buy or hold as a beneficiary in trust public property;

(D) be involved in buying or disposing of obligations of a State or the United States Government; and

(E) personally take or use a benefit gained from conducting business of the Department of the Treasury except as authorized by law.

(2) An officer violating this subsection shall be fined $3,000, removed from office, and thereafter may not hold an office of the Government.

(3) An individual (except prosecutors) giving information leading to the prosecution and conviction of an individual violating this subsection shall receive $1,500 of the fine when paid.

(b)(1) An officer or employee of the Department (except the Secretary or Treasurer) may not—

(A) carry on a trade or business in the funds, debts, or property of a State or the Government; and

(B) personally use a benefit gained from conducting business of the Department.

(2) An officer or employee violating this subsection shall be fined $500 and removed from office.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 884.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code* | *Source (Statutes at Large)* |
|---|---|---|
| 329(a) ..... | 31:163, 1003. | R.S. § 243. |
| 329(b) ..... | 31:1018. | R.S. § 244. |

In subsection (a)(1), before clause (A), the words ''The Secretary of the Treasury and the Treasurer may not'' are substituted for ''No person appointed to the office of Secretary of the Treasury, or Treasurer, shall'' because of the restatement and for consistency in the revised title. The words ''or First Comptroller'' (subsequently redesignated as the Comptroller of the Treasury by section 4 of the Act of July 31, 1894 (ch. 174, 28 Stat. 205)) and ''or First Auditor'' in section 243 of the Revised Statutes are omitted because the positions were abolished by sections 301 and 310 of the Act of June 10, 1921 (ch. 18, 42 Stat. 23, 25). The text of 31:163 is omitted because the position of Register was abolished by section 1(a) of Reorganization Plan No. 3 of 1940 (eff. June 30, 1940, 54 Stat. 1231). In clause (A), the words ''directly or indirectly'' are omitted as unnecessary. The words ''be involved'' are substituted for ''be concerned or interested in carrying on the business of'' to eliminate unnecessary words. In clause (B), the words ''any part of a'' are substituted for ''in whole or in part'' for consistency. The words ''(except a pleasure vessel)'' are added for consistency with 19:1599. In clause (C), the words ''buy or hold as beneficiary in trust'' are substituted for ''purchase by himself, or another in trust for him'' for clarity and consistency. The words ''public land'' are omitted as being included in ''public property''. In clause (D), the words ''involved in buying or disposing of obligations'' are substituted for ''be concerned in the purchase or disposal of any public securities'' to eliminate unnecessary words and for consistency in the revised title. In clause (E), the words ''personally take or use a benefit gained from conducting business of the Department of the Treasury'' are substituted for ''take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department'' to eliminate unnecessary words.

In subsection (a)(2), the words ''an officer'' are substituted for ''every person'' as being more precise. The word ''violating'' is substituted for ''who offends against any of the prohibitions of this section'' for clarity and to eliminate unnecessary words. The words ''shall be deemed guilty of a high misdemeanor'' are omitted because of 18:1. The word ''fined'' is substituted for ''forfeit to the United States the penalty'' for consistency and to eliminate unnecessary words. The words ''and shall upon conviction be'' are omitted as unnecessary.

In subsection (a)(3), the words ''giving information leading to the prosecution and conviction of an individual violating this subsection'' are substituted for ''shall give information of any such offense, upon which a prosecution and conviction shall be had'' for clarity. The words ''shall receive $1,500 of the fine when paid'' are substituted for ''one-half the aforesaid penalty of three thousand dollars, when recovered, shall be for the use of the person giving such information'' to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ''An officer or employee of the Department (except the Secretary or Treasurer)'' are substituted for ''Every clerk employed in the Treasury Department'' because of the restatement and for consistency with subsection (a) of the section. In clause (A), the words ''in any kind of public'' are omitted as unnecessary. In clause (B), the words ''personally use a benefit gained'' are substituted for ''who takes or applies to his own use any emolument or gain'' to eliminate unnecessary words. The word ''conducting'' is substituted for ''negotiating or transacting'' for consistency. The words ''shall be deemed guilty of a misdemeanor'' are omitted because of 18:1.

In subsection (b)(2), the words ''An officer or employee violating this subsection'' are added because of the restatement. The word ''punished'' is omitted as unnecessary.

## § 330. Practice before the Department

(a) Subject to section 500 of title 5, the Secretary of the Treasury may—

(1) regulate the practice of representatives of persons before the Department of the Treasury; and

(2) before admitting a representative to practice, require that the representative demonstrate—

(A) good character;

(B) good reputation;

(C) necessary qualifications to enable the representative to provide to persons valuable service; and

(D) competency to advise and assist persons in presenting their cases.

(b) After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department, or censure, a representative who—

(1) is incompetent;

(2) is disreputable;

(3) violates regulations prescribed under this section; or

(4) with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.

(c) After notice and opportunity for a hearing to any appraiser, the Secretary may—

(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Depart-

ment of the Treasury or the Internal Revenue Service, and

(2) bar such appraiser from presenting evidence or testimony in any such proceeding.

(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 884; Pub. L. 98–369, div. A, title I, § 156(a), July 18, 1984, 98 Stat. 695; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 108–357, title VIII, § 822(a)(1), (b), Oct. 22, 2004, 118 Stat. 1586, 1587; Pub. L. 109–280, title XII, § 1219(d), Aug. 17, 2006, 120 Stat. 1085.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code* | *Source (Statutes at Large)* |
|---|---|---|
| 330(a) ..... | 31:1026(1st sentence). | July 7, 1884, ch. 334, § 3(proviso and sentence immediately after proviso under heading ''War Department''), 23 Stat. 258. |
| 330(b) ..... | 31:1026(last sentence). | |

In the section, the words ''representatives of persons'' are substituted for ''agents, attorneys, or other persons representing claimants before his department'' to eliminate unnecessary words.

In subsection (a), before clause (1), the words ''Subject to section 500 of title 5'' are added for clarity and to conform to title 5. In clause (1), the word ''regulate'' is substituted for ''prescribe rules and regulations'' to eliminate unnecessary words. The words ''the practice'' are substituted for ''before being recognized'' for consistency with other revised titles of the United States Code. In clause (2)(C), the words ''possessed of the'' are omitted because of the restatement.

In subsection (b), the word ''proceeding'' is substituted for ''hearing'' because of subchapter II of chapter 5 of title 5. In clause (3), the words ''violates regulations prescribed under this section'' are substituted for ''who refuses to comply with said rules and regulations'' to eliminate unnecessary words. In clause (4), the words ''in any manner'' are omitted as surplus. The word ''deceive'' is omitted as being included in the word ''mislead''. The words ''by word, circular, letter, or by advertisement'' are omitted as unnecessary.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–280 struck out ''with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986'' after ''any appraiser'' in introductory provisions.

2004—Subsec. (b). Pub. L. 108–357, § 822(a)(1), inserted '', or censure,'' after ''Department'' in introductory provisions and inserted at end ''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''

Subsec. (d). Pub. L. 108–357, § 822(b), added subsec. (d).

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

1984—Subsec. (c). Pub. L. 98–369 added subsec. (c).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–280 applicable to appraisals prepared with respect to returns or submissions filed after Aug. 17, 2006, see section 1219(e)(2) of Pub. L. 109–280, set out as a note under section 170 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VIII, § 822(a)(2), Oct. 22, 2004, 118 Stat. 1587, provided that: ''The amendments made by this subsection [amending this section] shall apply to actions taken after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 156(b) of Pub. L. 98–369 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to penalties assessed after the date of the enactment of this Act [July 18, 1984].''

## § 331. Reports

(a) The Secretary of the Treasury shall submit to Congress each year an annual report. The report shall include—

(1) a statement of the public receipts and public expenditures for the prior fiscal year;

(2) estimates of public receipts and public expenditures for the current and next fiscal years;

(3) plans for improving and increasing public receipts to provide Congress with information on ways to raise amounts necessary to meet public expenditures;

(4) a statement of all contracts for supplies or services made by the Secretary during the prior fiscal year;

(5) a statement of appropriations expended to pay for miscellaneous claims not otherwise provided for;

(6) a statement on all payments made from the fund under section 3126 of this title for the prior fiscal year; and

(7) estimates of amounts for payment under section 1322(b) of this title.

(b)(1) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on—

(A) the total and individual amounts of contingent liabilities and unfunded liabilities of the United States Government;

(B) as far as practicable, trust fund liabilities, liabilities of Government corporations, indirect liabilities not included as a part of the public debt, and liabilities of insurance and annuity programs (including their actuarial status);

(C) collateral pledged and assets available (or to be realized) as security for the liabilities (separately noting Government obligations) and other assets specifically available to liquidate the liabilities of the Government; and

(D) the total amount in each category under clauses (A)–(C) of this paragraph for each agency.

(2) The report shall present the information required under paragraph (1) of this subsection in a concise way, with explanatory material (in-

cluding an analysis of the significance of liabilities based on past experience and probable risk) the Secretary considers desirable.

(c) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on the total amount of public receipts and public expenditures listing receipts, when practicable, by ports, districts, and States and the expenditures by each appropriation.

(d) The Secretary shall report to either House of Congress in person or in writing, as required, on matters referred to the Secretary by that House of Congress.

(e)(1) Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government. The financial statement shall reflect the overall financial position, including assets and liabilities, and results of operations of the executive branch of the United States Government, and shall be prepared in accordance with the form and content requirements set forth by the Director of the Office of Management and Budget.

(2) The Comptroller General of the United States shall audit the financial statement required by this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 884; Pub. L. 103–356, title IV, § 405(c), Oct. 13, 1994, 108 Stat. 3416.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code* | *Source (Statutes at Large)* |
|---|---|---|
| 331(a)(1)–(5). | 31:1027. | R.S. § 257. |
| | 31:1030. | Feb. 26, 1907, ch. 1635, § 1(2d par. under heading ''Treasury Department''), 34 Stat. 949. |
| 331(a)(6) .. | 31:757c(i)(last sentence). | Sept. 24, 1917, ch. 56, 40 Stat. 288, § 22(i)(last sentence); added Apr. 11, 1943, ch. 52, § 3, 57 Stat. 63; restated Apr. 3, 1945, ch. 51, § 3, 59 Stat. 48. |
| 331(a)(7) .. | 31:725p(a)(last sentence). | June 26, 1934, ch. 756, §§ 17(a)(last sentence), 18(a)(last sentence), 48 Stat. 1230, 1231. |
| | 31:725q(a)(last sentence). | |
| 331(b) ..... | 31:757f. | Nov. 13, 1966, Pub. L. 89–809, § 402, 80 Stat. 1590; Apr. 21, 1976, Pub. L. 94–273, § 2(17), 90 Stat. 375. |
| 331(c) ..... | 31:1029. | July 31, 1894, ch. 174, § 15, 28 Stat. 210. |
| 331(d) ..... | 31:1002(words between 4th and 5th semicolons) | R.S. § 248(words between 4th and 5th semicolons). |

In subsections (a) and (c), the word ''receipts'' is substituted for ''revenues'' for consistency in the section and the revised title.

In subsection (a)(1), the words ''public receipts and public expenditures'' are substituted for ''receipts and expenditures of the Government'' in 31:1030 for consistency in the section. The word ''completed'' is omitted as surplus. In clause (2), the words ''First. A report on the subject of finance'' in 31:1027 are omitted because of the restatement. The word ''containing'' is omitted as surplus. In clause (4), the words ''Second. A report containing'' are omitted because of the restatement. The words ''prior fiscal year'' are substituted for ''during the year preceding'' for consistency. In clause (5), the words ''paid at the Treasury'' are omitted as unnecessary. The 3d paragraph of section 257 of the Revised Statutes, providing for a report on rules and regulations of the Secretary of the Treasury on imported goods, wares, and merchandise, is omitted as obsolete because section 252 of the Revised Statutes, authorizing those rules and regulations, was repealed by the Act of February 27, 1877 (ch. 69, 19 Stat. 241). The 4th paragraph of section 257, providing for a report on amounts of hospital taxes collected from sick and disabled seamen, is omitted as obsolete because section 15 of the Act of June 26, 1884 (ch. 121, 23 Stat. 57), repealed the tax. In clause (7), the words ''the Commissioners of the District of Columbia'' (subsequently changed to ''the Mayor of the District of Columbia'' by section 422 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93–198, 87 Stat. 790)) in 31:725p are omitted as unnecessary because of § 448 of the District of Columbia Self-Government and Governmental Reorganization Act. The text of 31:725q(proviso) is omitted because of the restatement.

In subsection (b)(1), before clause (A), the words ''for the prior fiscal year'' are substituted for ''as of the close of the preceding September 30 (beginning with the report as of June 30, 1967)'' to eliminate unnecessary words. In clause (C), the word ''obligations'' is substituted for ''securities'' for consistency in the revised title. Clause (D) is substituted for ''and of each department, agency, and instrumentality thereof'' for clarity.

In subsection (c), the words ''a report for the prior fiscal year on the total amount of public receipts and public expenditures'' are substituted for ''an accurate combined statement of the receipts and expenditures during the last preceding fiscal year of all public moneys'' because of the restatement. The words ''including those of the United States Postal Service'' are omitted as unnecessary and superseded by 39:410.

In subsection (d), the words ''either House of Congress'' are substituted for ''either branch of the legislature'' for clarity and consistency. The words ''that House of Congress'' are substituted for ''the Senate or House of Representatives'' for consistency and because of the restatement. The words ''or which appertain to his office'' are omitted as unnecessary because of subsections (a)–(c) of the section.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–356 added subsec. (e).

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 certain reporting requirements under subsecs. (a), (b)(1)(A), and (c) of this section are listed on pages 140 and 142), 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.

## § 332. Miscellaneous administrative authority

The Secretary of the Treasury may to the extent provided in advance by appropriation Acts—

(1) contract for the temporary or intermittent services of experts or consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the per diem equivalent to the rate for GS–18;

(2) contract with and reimburse the Department of State for health and medical services for employees of the Department of the Treasury and their dependents serving in foreign countries;

(3) provide for official functions, and reception and representation activities;

(4) maintain, repair, and clean uniforms furnished by the Department of the Treasury to uniformed employees;

(5) provide athletic and related activities for students at the Federal Law Enforcement Training Center, Glynco, Georgia;

(6) install and maintain fencing, lighting, guard booths, and other facilities as necessary for the performance of protective functions of the Department of the Treasury on property not owned by or under jurisdiction and control of the United States Government and, subsequently, to remove the facilities therefrom;

(7) enter into reciprocal assistance agreements with State and local law enforcement agencies and, in connection with the agreements and otherwise, train employees of those agencies, when necessary, with or without reimbursement;

(8) provide laboratory assistance to State and local law enforcement agencies, with or without reimbursement;

(9) obtain insurance for official motor vehicles operated in foreign countries; and

(10)(A) when necessary for the performance of official business—

(i) acquire in foreign countries real property by lease for periods not greater than 10 years and personal property for use in foreign countries by purchase, lease, or otherwise, and

(ii) manage, maintain, repair, improve, and insure by purchase of commercial insurance policies properties referred to in clause (i), and

(B) when appropriate, dispose of (by sale, rent, transfer, or otherwise) properties referred to in subparagraph (A)(i).

(Added Pub. L. 98–302, § 3(a), May 25, 1984, 98 Stat. 217.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Law Enforcement Training Center of the Department of the Treasury to the Secretary of Homeland Security, and for treatment of related references, see sections 203(4), 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.

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.

## § 333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

(a) GENERAL RULE.—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

(1) the words ''Department of the Treasury'', or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

(2) the titles ''Secretary of the Treasury'' or ''Treasurer of the United States'' or the title of any other officer or employee of the Department of the Treasury,

(3) the abbreviations or initials of any entity referred to in paragraph (1),

(4) the words ''United States Savings Bond'' or the name of any other obligation issued by the Department of the Treasury,

(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

(b) TREATMENT OF DISCLAIMERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

(c) CIVIL PENALTY.—

(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed $5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ''$25,000'' for ''$5,000''.

(3) TIME LIMITATIONS.—

(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to recover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

(4) COORDINATION WITH SUBSECTION (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

(d) CRIMINAL PENALTY.—

(1) IN GENERAL.—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than $10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ''$50,000'' for ''$10,000''.

(2) TIME LIMITATIONS.—No person may be prosecuted, tried, or punished under paragraph

(1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

(3) COORDINATION WITH SUBSECTION (c).—No criminal proceeding may be commenced under this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation.

(Added Pub. L. 103–296, title III, §312(*l*)(1), Aug. 15, 1994, 108 Stat. 1528.)

EFFECTIVE DATE

Section 312(m) of Pub. L. 103–296 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending section 1320b–10 of Title 42, The Public Health and Welfare] shall apply with respect to violations occurring after March 31, 1995.

''(2) PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.—Subsection (*l*)(3) [enacting provisions set out below] shall take effect on the date of the enactment of this Act [Aug. 15, 1994], and the amendments made by paragraphs (1) and (2) of subsection (*l*) [enacting this section] shall apply with respect to violations occurring after such date.''

REPORT ON IMPLEMENTATION OF SECTION

Section 312(*l*)(3) of Pub. L. 103–296 provided that: ''Not later than May 1, 1996, 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 the implementation of the amendments made by this section [enacting this section and amending section 1320b–10 of Title 42, The Public Health and Welfare]. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)[(*l*)(1)]), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.''

## CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I—ORGANIZATION

Sec.
501. Office of Management and Budget.
502. Officers.
503. Functions of Deputy Director for Management.
504. Office of Federal Financial Management.
505. Office of Information and Regulatory Affairs.
506. Office of Federal Procurement Policy.
507. Office of Electronic Government.

SUBCHAPTER II—ADMINISTRATIVE

521. Employees.
522. Necessary expenditures.

AMENDMENTS

2002—Pub. L. 107–347, title I, §102(c)(2), Dec. 17, 2002, 116 Stat. 2910, added item 507.

1990—Pub. L. 101–576, title II, §203(c), Nov. 15, 1990, 104 Stat. 2841, added items 503 and 504 and redesignated former items 503 and 504 as 505 and 506, respectively.

1983—Pub. L. 97–452, §1(1)(B), Jan. 12, 1983, 96 Stat. 2467, added item 504.

SUBCHAPTER I—ORGANIZATION

### §501. Office of Management and Budget

The Office of Management and Budget is an office in the Executive Office of the President.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code* | *Source (Statutes at Large)* |
|---|---|---|
| 501 ..... | 31:16(1st sentence). | June 10, 1921, ch. 18, §207(1st sentence), 42 Stat. 22; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, §1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085; restated Mar. 2, 1974, Pub. L. 93–250, §1, 88 Stat. 11. |

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–576, title I, §101, Nov. 15, 1990, 104 Stat. 2838, provided that: ''This Act [enacting sections 503, 504, 901 to 903, and 3515 of this title, amending sections 502, 1105, 3512, 3521, 9105, and 9106 of this title, sections 5313 to 5315 of Title 5, Government Organization and Employees, and section 3533 of Title 42, The Public Health and Welfare, renumbering sections 503 and 504 of this title as 505 and 506 of this title, respectively, enacting provisions set out as notes under this section and sections 901, 3511, 3515, and 3521 of this title, and amending provisions set out as a note under section 301 of Title 38, Veterans' Benefits] may be cited as the 'Chief Financial Officers Act of 1990'.''

TRANSFER OF FUNCTIONS

Pub. L. 104–53, title II, §211, Nov. 19, 1995, 109 Stat. 535, as amended by Pub. L. 104–316, title II, §203, Oct. 19, 1996, 110 Stat. 3845, provided that: ''Personnel transferred pursuant to this section, as in effect immediately before the effective date of section 303 [203] of the General Accounting Office Act of 1996 [Pub. L. 104–316, Oct. 19, 1996], shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause.''

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Director of the Office of Management and Budget, see Parts 1, 2, and 28 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

COMPREHENSIVE ANALYSIS AND DEVELOPMENT OF SINGLE GOVERNMENT-WIDE DEFINITION OF INHERENTLY GOVERNMENTAL FUNCTION AND CRITERIA FOR CRITICAL FUNCTIONS

Pub. L. 110–417, [div. A], title III, §321, Oct. 14, 2008, 122 Stat. 4411, provided that:

''(a) DEVELOPMENT AND IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with appropriate representatives of the Chief Acquisition Officers Council under section 16A of the Office of Federal Procurement Policy Act (41 U.S.C. 414b) and the Chief Human Capital Officers Council under section 1401 of title 5, United States Code, shall—

''(1) review the definitions of the term 'inherently governmental function' described in subsection (b) to determine whether such definitions are sufficiently focused to ensure that only officers or employees of the Federal Government or members of the Armed Forces perform inherently governmental functions or other critical functions necessary for the mission of a Federal department or agency;

''(2) develop a single consistent definition for such term that would—

''(A) address any deficiencies in the existing definitions, as determined pursuant to paragraph (1);

''(B) reasonably apply to all Federal departments and agencies; and

''(C) ensure that the head of each such department or agency is able to identify each position within that department or agency that exercises an inherently governmental function and should only

be performed by officers or employees of the Federal Government or members of the Armed Forces;

''(3) develop criteria to be used by the head of each such department or agency to—

''(A) identify critical functions with respect to the unique missions and structure of that department or agency; and

''(B) identify each position within that department or agency that, while the position may not exercise an inherently governmental function, nevertheless should only be performed by officers or employees of the Federal Government or members of the Armed Forces to ensure the department or agency maintains control of its mission and operations;

''(4) in addition to the actions described under paragraphs (1), (2), and (3), provide criteria that would identify positions within Federal departments and agencies that are to be performed by officers or employees of the Federal Government or members of the Armed Forces to ensure that the head of each Federal department or agency—

''(A) develops and maintains sufficient organic expertise and technical capability;

''(B) develops guidance to implement the definition of inherently governmental as described in paragraph (2) and the criteria for critical functions as described in paragraph (3) in a manner that is consistent with agency missions and operational goals; and

''(C) develops guidance to manage internal decisions regarding staffing in an integrated manner to ensure officers or employees of the Federal Government or members of the Armed Forces are filling critical management roles by identifying—

''(i) functions, activities, or positions, or some combination thereof, or

''(ii) additional mechanisms and factors, including the management or oversight of awarded contracts, statutory mandates, and international obligations; and

''(5) solicit the views of the public regarding the matters identified in this section.

''(b) DEFINITIONS OF INHERENTLY GOVERNMENTAL FUNCTION.—The definitions of inherently governmental function described in this subsection are the definitions of such term that are contained in—

''(1) the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note);

''(2) section 2383 of title 10, United States Code;

''(3) Office of Management and Budget Circular A–76;

''(4) the Federal Acquisition Regulation; and

''(5) any other relevant Federal law or regulation, as determined by the Director of the Office of Management and Budget in consultation with the Chief Acquisition Officers Council and the Chief Human Capital Officers Council.

''(c) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], the Director of the Office of Management and Budget, in consultation with the Chief Acquisition Officers Council and the Chief Human Capital Officers Council, shall submit to the Committees on Armed Services of the Senate and House of Representatives, the Committee on Homeland Security and Governmental Affairs in the Senate, and the Committee on Oversight and Government Reform of the House of Representatives a report on the actions taken by the Director under this section. Such report shall contain each of the following:

''(1) A description of the actions taken by the Director under this section to develop a single definition of inherently governmental function and criteria for critical functions.

''(2) Such legislative recommendations as the Director determines are necessary to further the purposes of this section.

''(3) A description of such steps as may be necessary—

''(A) to ensure that the single definition and criteria developed under this section are consistently applied through all Federal regulations, circulars, policy letters, agency guidance, and other documents;

''(B) to repeal any existing Federal regulations, circular, policy letters, agency guidance and other documents determined to be superseded by the definition and criteria developed under this section; and

''(C) to develop any necessary implementing guidance under this section for agency staffing and contracting decisions, along with appropriate milestones.

''(d) REGULATIONS.—Not later than 180 days after submission of the report required by subsection (c), the Director of the Office of Management and Budget shall issue regulations to implement actions taken under this section to develop a single definition of inherently governmental function and criteria for critical functions.''

PUBLIC-PRIVATE COMPETITION

Pub. L. 110–161, div. D, title VII, § 739, Dec. 26, 2007, 121 Stat. 2029, provided that:

''(a) REQUIREMENT FOR PUBLIC-PRIVATE COMPETITION.—

''(1) Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be available to convert to contractor performance an activity or function of an executive agency that, on or after the date of enactment of this Act [Dec. 26, 2007], is performed by more than 10 Federal employees unless—

''(A) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

''(B) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the executive agency by an amount that equals or exceeds the lesser of—

''(i) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

''(ii) $10,000,000; and

''(C) the contractor does not receive an advantage for a proposal that would reduce costs for the Federal Government by—

''(i) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract;

''(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Federal Government for health benefits for civilian employees under chapter 89 of title 5, United States Code; or

''(iii) offering to such workers a retirement benefit that in any year costs less than the annual retirement cost factor applicable to Federal employees under chapter 84 of title 5, United States Code.

''(2) This paragraph shall not apply to—

''(A) the Department of Defense;

''(B) section 44920 of title 49, United States Code;

''(C) a commercial or industrial type function that—

''(i) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

''(ii) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely

handicapped individuals in accordance with that Act;

''(D) depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code; or

''(E) activities that are the subject of an ongoing competition that was publicly announced prior to the date of enactment of this Act [Dec. 26, 2007].

''(b) USE OF PUBLIC-PRIVATE COMPETITION.—Nothing in Office of Management and Budget Circular A–76 shall prevent the head of an executive agency from conducting a public-private competition to evaluate the benefits of converting work from contract performance to performance by Federal employees in appropriate instances. The Circular shall provide procedures and policies for these competitions that are similar to those applied to competitions that may result in the conversion of work from performance by Federal employees to performance by a contractor.

''(c) BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.—

''(1) ELIGIBILITY TO PROTEST.—

''(A) [Amended section 3551 of this title.]

''(B)(i) [Enacted section 3557 of this title.]

''(ii) [Amended chapter analysis preceding section 3501 of this title.]

''(2) [Amended section 1491 of title 28, Judiciary and Judicial Procedure.]

''(3) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by paragraph (1)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by paragraph (2)), shall apply to—

''(A) 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 January 1, 2004; and

''(B) 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 the date of the enactment of this Act [Dec. 26, 2007].

''(d) LIMITATION.—(1) None of the funds available in this Act [titles I to III and V to VII of div. D of Pub. L. 110–161, see Tables for classification] may be used—

''(A) by the Office of Management and Budget to direct or require another agency to take an action specified in paragraph (2); or

''(B) by an agency to take an action specified in paragraph (2) as a result of direction or requirement from the Office of Management and Budget.

''(2) An action specified in this paragraph is the preparation for, undertaking, continuation of, or completion of a public-private competition or direct conversion under Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.

''(e) APPLICABILITY.—This section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.''

COMPETITIVE SOURCING ACTIVITIES

Pub. L. 108–199, div. F, title VI, §647(b), (d), (f), Jan. 23, 2004, 118 Stat. 361, 362, provided that:

''(b) Not later than 120 days following the enactment of this Act [Jan. 23, 2004] and not later than December 31 of each year thereafter, the head of each executive agency shall submit to Congress a report on the competitive sourcing activities on the list required under the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note) that were performed for such executive agency during the previous fiscal year by Federal Government sources. The report shall include—

''(1) the total number of competitions completed;

''(2) the total number of competitions announced, together with a list of the activities covered by such competitions;

''(3) the total number (expressed as a full-time employee equivalent number) of the Federal employees studied under completed competitions;

''(4) the total number (expressed as a full-time employee equivalent number) of the Federal employees that are being studied under competitions announced but not completed;

''(5) the incremental cost directly attributable to conducting the competitions identified under paragraphs (1) and (2), including costs attributable to paying outside consultants and contractors;

''(6) an estimate of the total anticipated savings, or a quantifiable description of improvements in service or performance, derived from completed competitions;

''(7) actual savings, or a quantifiable description of improvements in service or performance, derived from the implementation of competitions completed after May 29, 2003;

''(8) the total projected number (expressed as a full-time employee equivalent number) of the Federal employees that are to be covered by competitions scheduled to be announced in the fiscal year covered by the next report required under this section; and

''(9) a general description of how the competitive sourcing decisionmaking processes of the executive agency are aligned with the strategic workforce plan of that executive agency.

''(d) Hereafter, the head of an executive agency may expend funds appropriated or otherwise made available for any purpose to the executive agency under this or any other Act to monitor (in the administration of responsibilities under Office of Management and Budget Circular A–76 or any related policy, directive, or regulation) the performance of an activity or function of the executive agency that has previously been subjected to a public-private competition under such circular.

''(f) In this section, the term 'executive agency' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).''

Pub. L. 108–108, title III, §340(a), (b), (f), Nov. 10, 2003, 117 Stat. 1315, 1317, as amended by Pub. L. 108–447, div. E, title III, §332(c), Dec. 8, 2004, 118 Stat. 3100, provided that:

''(a) JUSTIFICATION OF COMPETITIVE SOURCING ACTIVITIES.—(1) In each budget submitted by the President to Congress under section 1105 of title 31, United States Code, for a fiscal year, beginning with fiscal year 2005, amounts requested to perform competitive sourcing studies for programs, projects, and activities listed in paragraph (2) shall be set forth separately from other amounts requested.

''(2) Paragraph (1) applies to programs, projects, and activities—

''(A) of the Department of the Interior for which funds are appropriated by this Act [see Tables for classification];

''(B) of the Forest Service; and

''(C) of the Department of Energy for which funds are appropriated by this Act.

[(b) Repealed. Pub. L. 108–447, div. E, title III, §332(c), Dec. 8, 2004, 118 Stat. 3100.]

''(f) COMPETITIVE SOURCING STUDY DEFINED.—In this subsection [probably means ''this section''], the term 'competitive sourcing study' means a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A–76 or any other administrative regulation, directive, or policy.''

STUDY OF POLICIES AND PROCEDURES FOR TRANSFER OF COMMERCIAL ACTIVITIES

Pub. L. 106–398, §1 [[div. A], title VIII, §832], Oct. 30, 2000, 114 Stat. 1654, 1654A–221, provided that the Comp-

troller General was to convene a panel of experts to study the policies and procedures governing the transfer of commercial activities for the Federal Government from Government personnel to Federal contractors and to appoint highly qualified and knowledgeable persons, from appropriate governmental agencies and private industry, to serve on the panel, whose chairman would be the Comptroller General or a designated individual within the GAO, and provided that interested parties would be allowed to participate, that the panel would have access to necessary information from Federal agencies, and that the Comptroller General was to submit a report of the panel on the results of the study to Congress no later than May 1, 2002.

USE OF PRIVATE ENTERPRISES

Pub. L. 106–53, title II, § 227, Aug. 17, 1999, 113 Stat. 298, provided that:

''(a) IN GENERAL.—The Secretary [of the Army] shall comply with the requirements of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note; Public Law 105–270).

''(b) COMPLIANCE WITH OTHER LAW.—

''(1) INVENTORY AND REVIEW.—In carrying out this section, the Secretary shall inventory and review all activities that are not inherently governmental in nature in accordance with the Federal Activities Inventory Reform Act of 1998.

''(2) ARCHITECTURAL AND ENGINEERING SERVICES.—Any review and conversion by the Secretary to performance by private enterprise of an architectural or engineering service (including a surveying or mapping service) shall be carried out in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) [now sections 1101–1104 of title 40].''

FEDERAL ACTIVITIES INVENTORY REFORM

Pub. L. 110–28, title VI, § 6201, May 25, 2007, 121 Stat. 171, provided that: ''Hereafter, Federal employees at the National Energy Technology Laboratory shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 [Pub. L. 105–270] (31 U.S.C. 501 note).''

Pub. L. 110–28, title VI, § 6602(b), May 25, 2007, 121 Stat. 178, provided that: ''Hereafter, Federal employees at the Mine Safety and Health Administration shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 [Pub. L. 105–270] (31 U.S.C. 501 note).''

Pub. L. 105–270, Oct. 19, 1998, 112 Stat. 2382, as amended by Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–115, div. A, title VIII, § 840, Nov. 30, 2005, 119 Stat. 2505, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Federal Activities Inventory Reform Act of 1998'.

''SEC. 2. ANNUAL LISTS OF GOVERNMENT ACTIVITIES NOT INHERENTLY GOVERNMENTAL IN NATURE.

''(a) LISTS REQUIRED.—Not later than the end of the third quarter of each fiscal year, the head of each executive agency shall submit to the Director of the Office of Management and Budget a list of activities performed by Federal Government sources for the executive agency that, in the judgment of the head of the executive agency, are not inherently governmental functions. The entry for an activity on the list shall include the following:

''(1) The fiscal year for which the activity first appeared on a list prepared under this section.

''(2) The number of full-time employees (or its equivalent) that are necessary for the performance of the activity by a Federal Government source.

''(3) The name of a Federal Government employee responsible for the activity from whom additional information about the activity may be obtained.

''(b) OMB REVIEW AND CONSULTATION.—The Director of the Office of Management and Budget shall review the executive agency's list for a fiscal year and consult with the head of the executive agency regarding the content of the final list for that fiscal year.

''(c) PUBLIC AVAILABILITY OF LISTS.—

''(1) PUBLICATION.—Upon the completion of the review and consultation regarding a list of an executive agency—

''(A) the head of the executive agency shall promptly transmit a copy of the list to Congress and make the list available to the public; and

''(B) the Director of the Office of Management and Budget shall promptly publish in the Federal Register a notice that the list is available to the public.

''(2) CHANGES.—If the list changes after the publication of the notice as a result of the resolution of a challenge under section 3, the head of the executive agency shall promptly—

''(A) make each such change available to the public and transmit a copy of the change to Congress; and

''(B) publish in the Federal Register a notice that the change is available to the public.

''(d) COMPETITION REQUIRED.—Within a reasonable time after the date on which a notice of the public availability of a list is published under subsection (c), the head of the executive agency concerned shall review the activities on the list. Each time that the head of the executive agency considers contracting with a private sector source for the performance of such an activity, the head of the executive agency shall use a competitive process to select the source (except as may otherwise be provided in a law other than this Act, an Executive order, regulations, or any executive branch circular setting forth requirements or guidance that is issued by competent executive authority). The Director of the Office of Management and Budget shall issue guidance for the administration of this subsection.

''(e) REALISTIC AND FAIR COST COMPARISONS.—For the purpose of determining whether to contract with a source in the private sector for the performance of an executive agency activity on the list on the basis of a comparison of the costs of procuring services from such a source with the costs of performing that activity by the executive agency, the head of the executive agency shall ensure that all costs (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are considered and that the costs considered are realistic and fair.

''SEC. 3. CHALLENGES TO THE LIST.

''(a) CHALLENGE AUTHORIZED.—An interested party may submit to an executive agency a challenge of an omission of a particular activity from, or an inclusion of a particular activity on, a list for which a notice of public availability has been published under section 2.

''(b) INTERESTED PARTY DEFINED.—For the purposes of this section, the term 'interested party', with respect to an activity referred to in subsection (a), means the following:

''(1) A private sector source that—

''(A) is an actual or prospective offeror for any contract, or other form of agreement, to perform the activity; and

''(B) has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source.

''(2) A representative of any business or professional association that includes within its membership private sector sources referred to in paragraph (1).

''(3) An officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity.

''(4) The head of any labor organization referred to in section 7103(a)(4) of title 5, United States Code, that includes within its membership officers or em-

ployees of an organization referred to in paragraph (3).

''(c) TIME FOR SUBMISSION.—A challenge to a list shall be submitted to the executive agency concerned within 30 days after the publication of the notice of the public availability of the list under section 2.

''(d) INITIAL DECISION.—Within 28 days after an executive agency receives a challenge, an official designated by the head of the executive agency shall—

''(1) decide the challenge; and

''(2) transmit to the party submitting the challenge a written notification of the decision together with a discussion of the rationale for the decision and an explanation of the party's right to appeal under subsection (e).

''(e) APPEAL.—

''(1) AUTHORIZATION OF APPEAL.—An interested party may appeal an adverse decision of the official to the head of the executive agency within 10 days after receiving a notification of the decision under subsection (d).

''(2) DECISION ON APPEAL.—Within 10 days after the head of an executive agency receives an appeal of a decision under paragraph (1), the head of the executive agency shall decide the appeal and transmit to the party submitting the appeal a written notification of the decision together with a discussion of the rationale for the decision.

''SEC. 4. APPLICABILITY.

''(a) EXECUTIVE AGENCIES COVERED.—Except as provided in subsection (b), this Act applies to the following executive agencies:

''(1) EXECUTIVE DEPARTMENT.—An executive department named in section 101 of title 5, United States Code.

''(2) MILITARY DEPARTMENT.—A military department named in section 102 of title 5, United States Code.

''(3) INDEPENDENT ESTABLISHMENT.—An independent establishment, as defined in section 104 of title 5, United States Code.

''(b) EXCEPTIONS.—This Act does not apply to or with respect to the following:

''(1) GOVERNMENT ACCOUNTABILITY OFFICE.—The Government Accountability Office.

''(2) GOVERNMENT CORPORATION.—A Government corporation or a Government controlled corporation, as those terms are defined in section 103 of title 5, United States Code.

''(3) NONAPPROPRIATED FUNDS INSTRUMENTALITY.—A part of a department or agency if all of the employees of that part of the department or agency are employees referred to in section 2105(c) of title 5, United States Code.

''(4) CERTAIN DEPOT-LEVEL MAINTENANCE AND REPAIR.—Depot-level maintenance and repair of the Department of Defense (as defined in section 2460 of title 10, United States Code).

''(5) Executive agencies with fewer than 100 full-time employees as of the first day of the fiscal year. However, such an agency shall be subject to section 2 to the extent it plans to conduct a public-private competition for the performance of an activity that is not inherently governmental.

''SEC. 5. DEFINITIONS.

''In this Act:

''(1) FEDERAL GOVERNMENT SOURCE.—The term 'Federal Government source', with respect to performance of an activity, means any organization within an executive agency that uses Federal Government employees to perform the activity.

''(2) INHERENTLY GOVERNMENTAL FUNCTION.—

''(A) DEFINITION.—The term 'inherently governmental function' means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

''(B) FUNCTIONS INCLUDED.—The term includes activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as—

''(i) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

''(ii) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

''(iii) to significantly affect the life, liberty, or property of private persons;

''(iv) to commission, appoint, direct, or control officers or employees of the United States; or

''(v) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriated and other Federal funds.

''(C) FUNCTIONS EXCLUDED.—The term does not normally include—

''(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

''(ii) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services).

''SEC. 6. EFFECTIVE DATE.

''This Act shall take effect on October 1, 1998.''

PURPOSE OF AMENDMENTS BY PUB. L. 104–316

Pub. L. 104–316, title II, §201, Oct. 19, 1996, 110 Stat. 3842, provided that: ''The purpose of this title [see Tables for classification] is to amend provisions of law to reflect, update, and enact transfers and subsequent delegations of functions made under section 211 of the Legislative Branch Appropriations Act, 1996 (Public Law 104–53, 109 Stat. 535) [see Transfer of Functions note above], as in effect immediately before this title takes effect [Oct. 19, 1996].''

DEPARTMENT OF COMMERCE FRANCHISE FUND PILOT

Pub. L. 108–199, div. B, title II, §206, Jan. 23, 2004, 118 Stat. 73, provided that: ''Hereafter, the Secretary of Commerce may use the Commerce franchise fund for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services, pursuant to section 403 of Public Law 103–356 [set out below]: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 2004 and each fiscal year thereafter, to remain available until expended, to be used for

the acquisition of capital equipment, and for the improvement and implementation of department financial management, automated data processing, and other support systems: *Provided further*, That such amounts retained in the fund for fiscal year 2004 and each fiscal year thereafter shall be available for obligation and expenditure only in accordance with section 605 of this Act [118 Stat. 93]: *Provided further*, That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–7, div. B, title II, § 207, Feb. 20, 2003, 117 Stat. 77.

Pub. L. 107–77, title II, § 207, Nov. 28, 2001, 115 Stat. 778.

Pub. L. 106–553, § 1(a)(2) [title II, § 208], Dec. 21, 2000, 114 Stat. 2762, 2762A–79.

Pub. L. 106–113, div. B, § 1000(a)(1) [title II, § 209], Nov. 29, 1999, 113 Stat. 1535, 1501A–33.

Pub. L. 105–277, div. A, § 101(b) [title II, § 209], Oct. 21, 1998, 112 Stat. 2681–50, 2681–87.

DEPARTMENT OF THE INTERIOR FRANCHISE FUND PILOT

Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 113], Sept. 30, 1996, 110 Stat. 3009–181, 3009–200, as amended by Pub. L. 108–7, div. F, title I, § 149, Feb. 20, 2003, 117 Stat. 245, provided that: ''There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356 [set out below], to be available as provided in such section for costs of capitalizing and operating administrative services as the Secretary determines may be performed more advantageously as central services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund may be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automatic data processing (ADP) software and systems (either acquired or donated) and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of Department financial management, ADP, and other support systems: *Provided further*, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury: *Provided further*, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356.''

DEPARTMENT OF VETERANS AFFAIRS FRANCHISE FUND PILOT

Pub. L. 108–447, div. I, title I, § 108, Dec. 8, 2004, 118 Stat. 3292, provided that: ''Notwithstanding any other provision of law, the Department of Veterans Affairs shall continue the Franchise Fund pilot program authorized to be established by section 403 of Public Law 103–356 [set out below] until October 1, 2005: *Provided*, That the Franchise Fund, established by title I of Public Law 104–204 [set out as a note under section 301 of Title 38, Veterans' Benefits] to finance the operations of the Franchise Fund pilot program, shall continue until October 1, 2005.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–199, div. G, title I, § 108, Jan. 23, 2004, 118 Stat. 369.

Pub. L. 108–7, div. K, title I, § 108, Feb. 20, 2003, 117 Stat. 481.

Pub. L. 107–73, title I, § 108, Nov. 26, 2001, 115 Stat. 658.

DEPARTMENT OF HOMELAND SECURITY WORKING CAPITAL FUND

Pub. L. 110–329, div. D, title V, § 504, Sept. 30, 2008, 122 Stat. 3680, provided that: ''The Department of Homeland Security Working Capital Fund, established pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations as a permanent working capital fund for fiscal year 2009: *Provided*, That none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the Working Capital Fund, except for the activities and amounts allowed in the President's fiscal year 2009 budget: *Provided further*, That funds provided to the Working Capital Fund shall be available for obligation until expended to carry out the purposes of the Working Capital Fund: *Provided further*, That all departmental components shall be charged only for direct usage of each Working Capital Fund service: *Provided further*, That funds provided to the Working Capital Fund shall be used only for purposes consistent with the contributing component: *Provided further*, That such fund shall be paid in advance or reimbursed at rates which will return the full cost of each service: *Provided further*, That the Working Capital Fund shall be subject to the requirements of section 503 of this Act [122 Stat. 3679].''

Pub. L. 110–161, div. E, title V, § 524, Dec. 26, 2007, 121 Stat. 2074, provided that: ''The Department of Homeland Security Working Capital Fund, established pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations during fiscal year 2008.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 109–295, title V, § 526, Oct. 4, 2006, 120 Stat. 1382.

Pub. L. 109–13, div. A, title VI, § 6025, May 11, 2005, 119 Stat. 287, provided that: ''The Department of Homeland Security shall henceforth provide an appropriations justification for the 'Department of Homeland Security Working Capital Fund' to the Committees on Appropriations of the Senate and House of Representatives: *Provided*, That an annual appropriations justification shall be submitted to the Congress as a part of the President's budget as submitted under section 1105(a) of Title 31, United States Code, and shall contain the same level of detail as the Department's Congressional appropriations justification in support of the President's budget: *Provided further*, That the 'Department of Homeland Security Working Capital Fund' Congressional appropriations justification for fiscal year 2006 shall be submitted within 15 days of enactment of this Act [May 11, 2005]: *Provided further*, That the Chief Financial Officer shall ensure that all planned activities and amounts to be funded by the 'Department of Homeland Security Working Capital Fund', all reimbursable agreements, and all uses of the Economy Act [31 U.S.C. 1535] are explicitly identified in each Congressional appropriations justification in support of the President's budget provided for each agency and component of the Department.''

Pub. L. 108–90, title V, § 506, Oct. 1, 2003, 117 Stat. 1153, provided in part: ''That such fund [Federal Emergency Management Agency Working Capital Fund] shall hereafter be known as the 'Department of Homeland Security Working Capital Fund'.''

Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2915, as amended by Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410, provided in part: ''For the establishment of a working capital fund for the Federal Emergency Management Agency, to be available without fiscal year limitation, for expenses and equipment necessary for maintenance and operations of such administrative services as the Administrator determines may

be performed more advantageously as central services: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made hereafter for the purpose of providing capital, shall be used to capitalize such fund: *Provided further*, That such fund shall be reimbursed or credited with advance payments from applicable appropriations and funds of the Federal Emergency Management Agency, other Federal agencies, and other sources authorized by law for which such centralized services are performed, including supplies, materials, and services, at rates that will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve as determined by the Administrator: *Provided further*, That income of such fund may be retained, to remain available until expended, for purposes of the fund: *Provided further*, That fees for services shall be established by the Administrator at a level to cover the total estimated costs of providing such services, such fees to be deposited in the fund shall remain available until expended for purposes of the fund: *Provided further*, That such fund shall terminate in a manner consistent with section 403(f) of Public Law 103–356 [set out below].''

[For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.]

[For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.]

FRANCHISE FUND PILOT PROGRAMS

Pub. L. 103–356, title IV, §403, Oct. 13, 1994, 108 Stat. 3413, as amended by Pub. L. 104–208, div. A, title I, §101(f) [title VI, §627], Sept. 30, 1996, 110 Stat. 3009–314, 3009–360; Pub. L. 107–67, title VI, §634, Nov. 12, 2001, 115 Stat. 553; Pub. L. 108–7, div. J, title VI, §633, Feb. 20, 2003, 117 Stat. 471; Pub. L. 108–136, div. A, title XIV, §1426, Nov. 24, 2003, 117 Stat. 1670; Pub. L. 108–199, div. F, title VI, §632, Jan. 23, 2004, 118 Stat. 357; Pub. L. 108–447, div. H, title VI, §632, Dec. 8, 2004, 118 Stat. 3280; Pub. L. 109–90, title V, §539, Oct. 18, 2005, 119 Stat. 2088; Pub. L. 109–115, div. A, title VIII, §831, Nov. 30, 2005, 119 Stat. 2503; Pub. L. 110–161, div. D, title VII, §730, Dec. 26, 2007, 121 Stat. 2026, provided that:

''(a) ESTABLISHMENT.—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations [now Committee on Oversight and Government Reform] of the House of Representatives, shall designate the agencies.

''(b) USES.—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

''(c) FUNDING.—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

''(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

''(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

''(d) REPORT ON PILOT PROGRAMS.—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate and the Committee on Government Operations [now Committee on Oversight and Government Reform] of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

''(1) the structure of the fund;

''(2) the composition of the funding mechanism;

''(3) the capacity of the fund to promote competition; and

''(4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

''(e) PROCUREMENT.—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

''(f) TERMINATION OF CERTAIN AUTHORITY.—The authority of the Secretary of Homeland Security to carry out a pilot program under this section shall terminate on October 1, 2008.''

[Pub. L. 109–289, div. B, title II, §21068, as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 57, provided that: ''Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106 of this division [Sept. 30, 2007] for 'October 1, 2006'.'']

[Pub. L. 109–115, div. A, title VIII, §831, Nov. 30, 2005, 119 Stat. 2503, provided in part: ''That this provision [amending section 403(f) of Pub. L. 103–356, set out above, by substituting ''October 1, 2006'' for ''October 1, 2005''] shall not apply to the Department of Homeland Security.'']

[Pub. L. 109–90, title V, §539, Oct. 18, 2005, 119 Stat. 2088, amended section 403(f) of Pub. L. 103–356, set out above, by substituting ''October 1, 2006'' for ''October 1, 2005'', for activities related to the Department of Homeland Security Working Capital Fund.]

[Pub. L. 108–199, div. F, title VI, §632, Jan. 23, 2004, 118 Stat. 357, which directed the amendment of subsec. (f) of section 403 of Pub. L. 103–356, set out above, by substituting ''October 1, 2004'' for ''October 1, 2003'', was executed by making the substitution for ''December 31, 2004'' to reflect the probable intent of Congress.]

SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS

Pub. L. 103–356, title IV, §404, Oct. 13, 1994, 108 Stat. 3414, as amended by Pub. L. 104–208, div. A, title I, §101(f) [title VI, §646], Sept. 30, 1996, 110 Stat. 3009–314, 3009–366; Pub. L. 106–113, div. B, §1000(a)(5) [title II, §241], Nov. 29, 1999, 113 Stat. 1536, 1501A–303, provided that:

''(a) IN GENERAL.—To improve the efficiency of executive branch performance in implementing statutory re-

quirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

''(1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;

''(2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101–410; 104 Stat. 890).

''(b) APPLICATION.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and April 30, 2000.

''(c) ADJUSTMENTS IN REPORTING.—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

''(1) consultation with the Chairman of the Senate Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] and the Chairman of the House of Representatives Committee on Government Operations [now Committee on Oversight and Government Reform]; and

''(2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year.''

FINDINGS AND PURPOSES OF CHIEF FINANCIAL OFFICERS ACT OF 1990

Pub. L. 101–576, title I, § 102, Nov. 15, 1990, 104 Stat. 2838, provided that:

''(a) FINDINGS.—The Congress finds the following:

''(1) General management functions of the Office of Management and Budget need to be significantly enhanced to improve the efficiency and effectiveness of the Federal Government.

''(2) Financial management functions of the Office of Management and Budget need to be significantly enhanced to provide overall direction and leadership in the development of a modern Federal financial management structure and associated systems.

''(3) Billions of dollars are lost each year through fraud, waste, abuse, and mismanagement among the hundreds of programs in the Federal Government.

''(4) These losses could be significantly decreased by improved management, including improved central coordination of internal controls and financial accounting.

''(5) The Federal Government is in great need of fundamental reform in financial management requirements and practices as financial management systems are obsolete and inefficient, and do not provide complete, consistent, reliable, and timely information.

''(6) Current financial reporting practices of the Federal Government do not accurately disclose the current and probable future cost of operating and investment decisions, including the future need for cash or other resources, do not permit adequate comparison of actual costs among executive agencies, and do not provide the timely information required for efficient management of programs.

''(b) PURPOSES.—The purposes of this Act [see Short Title of 1990 Amendment note above] are the following:

''(1) Bring more effective general and financial management practices to the Federal Government through statutory provisions which would establish in the Office of Management and Budget a Deputy Director for Management, establish an Office of Federal Financial Management headed by a Controller, and designate a Chief Financial Officer in each executive department and in each major executive agency in the Federal Government.

''(2) Provide for improvement, in each agency of the Federal Government, of systems of accounting, financial management, and internal controls to assure the issuance of reliable financial information and to deter fraud, waste, and abuse of Government resources.

''(3) Provide for the production of complete, reliable, timely, and consistent financial information for use by the executive branch of the Government and the Congress in the financing, management, and evaluation of Federal programs.''

DUTIES AND FUNCTIONS OF DEPARTMENT OF THE TREASURY

Pub. L. 101–576, title II, § 204, Nov. 15, 1990, 104 Stat. 2842, provided that: ''Nothing in this Act [see Short Title of 1990 Amendment note above] shall be construed to interfere with the exercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act [Nov. 15, 1990].''

**REORGANIZATION PLAN NO. 2 OF 1970**

Eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, as amended Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled March 12, 1970, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

OFFICE OF MANAGEMENT AND BUDGET; DOMESTIC COUNCIL

PART I. OFFICE OF MANAGEMENT AND BUDGET

SECTION 101. TRANSFER OF FUNCTIONS TO THE PRESIDENT

There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget.

SEC. 102. OFFICE OF MANAGEMENT AND BUDGET

[Repealed. Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085. Section designated the Bureau of the Budget as the Office of Management and Budget, provided for the officers and their duties, and provided for performance of the duties of the Director in the event of absence or disability or a vacancy in the office of Director.]

SEC. 103. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

[Repealed. Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085. Section provided that the records, property, personnel, and unexpended balances etc., of the Bureau of the Budget shall become those of the Office of Management and Budget.]

PART II. DOMESTIC COUNCIL

SEC. 201. ESTABLISHMENT OF THE COUNCIL

(a) There is hereby established in the Executive Office of the President a Domestic Council, hereinafter referred to as the Council.

(b) The Council shall be composed of the following:

The President of the United States
The Vice President of the United States
The Attorney General
Secretary of Agriculture
Secretary of Commerce
Secretary of Health, Education, and Welfare
Secretary of Housing and Urban Development
Secretary of the Interior
Secretary of Labor
Secretary of Transportation
Secretary of the Treasury

and such other officers of the Executive Branch as the President may from time to time direct.

(c) The President of the United States shall preside over meetings of the Council: *Provided*, That, in the event of his absence, he may designate a member of the Council to preside.

SEC. 202. FUNCTIONS OF THE COUNCIL

The Council shall perform such functions as the President may from time to time delegate or assign thereto.

SEC. 203. EXECUTIVE DIRECTOR

The staff of the Council shall be headed by an Executive Director who shall be an assistant to the President designated by the President. The Executive Director shall perform such functions as the President may from time to time direct.

PART III. TAKING EFFECT

SEC. 301. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1970, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

We in government often are quick to call for reform in other institutions, but slow to reform ourselves. Yet nowhere today is modern management more needed than in government itself.

In 1939, President Franklin D. Roosevelt proposed and the Congress accepted a reorganization plan that laid the groundwork for providing managerial assistance for a modern Presidency.

The plan placed the Bureau of the Budget within the Executive Office of the President. It made available to the President direct access to important new management instruments. The purpose of the plan was to improve the administration of the Government—to ensure that the Government could perform ''promptly, effectively, without waste or lost motion.''

Fulfilling that purpose today is far more difficult—and more important—than it was 30 years ago.

Last April, I created a President's Advisory Council on Executive Organization and named to it a distinguished group of outstanding experts headed by Roy L. Ash. I gave the Council a broad charter to examine ways in which the Executive Branch could be better organized. I asked it to recommend specific organizational changes that would make the Executive Branch a more vigorous and more effective instrument for creating and carrying out the programs that are needed today. The Council quickly concluded that the place to begin was in the Executive Office of the President itself. I agree.

The past 30 years have seen enormous changes in the size, structure and functions of the Federal Government. The budget has grown from less than $10 billion to $200 billion. The number of civilian employees has risen from one million to more than two and a half million. Four new Cabinet departments have been created, along with more than a score of independent agencies. Domestic policy issues have become increasingly complex. The interrelationships among Government programs have become more intricate. Yet the organization of the President's policy and management arms has not kept pace.

Over three decades, the Executive Office of the President has mushroomed but not by conscious design. In many areas it does not provide the kind of staff assistance and support the President needs in order to deal with the problems of government in the 1970s. We confront the 1970s with a staff organization geared in large measure to the tasks of the 1940s and 1950s.

One result, over the years, has been a tendency to enlarge the immediate White House staff—that is, the President's personal staff, as distinct from the institutional structure—to assist with management functions for which the President is responsible. This has blurred the distinction between personal staff and management institutions; it has left key management functions to be performed only intermittently and some not at all. It has perpetuated outdated structures.

Another result has been, paradoxically, to inhibit the delegation of authority to Departments and agencies.

A President whose programs are carefully coordinated, whose information system keeps him adequately informed, and whose organizational assignments are plainly set out, can delegate authority with security and confidence. A President whose office is deficient in these respects will be inclined, instead, to retain close control of operating responsibilities which he cannot and should not handle.

Improving the management processes of the President's own office, therefore, is a key element in improving the management of the entire Executive Branch, and in strengthening the authority of its Departments and agencies. By providing the tools that are needed to reduce duplication, to monitor performance and to promote greater efficiency throughout the Executive Branch, this also will enable us to give the country not only more effective but also more economical government—which it deserves.

To provide the management tools and policy mechanisms needed for the 1970s, I am today transmitting to the Congress Reorganization Plan No. 2 of 1970, prepared in accordance with Chapter 9 of Title 5 of the United States Code.

This plan draws not only on the work of the Ash Council itself, but also on the work of others that preceded—including the pioneering Brownlow Committee of 1936, the two Hoover Commissions, the Rockefeller Committee, and other Presidential task forces.

Essentially, the plan recognizes that two closely connected but basically separate functions both center in the President's office: policy determination and executive management. This involves (1) what government should do, and (2) how it goes about doing it.

My proposed reorganization creates a new entity to deal with each of these functions:

—It establishes a Domestic Council, to coordinate policy formulation in the domestic area. This Cabinet group would be provided with an institutional staff, and to a considerable degree would be a domestic counterpart to the National Security Council.

—It establishes an Office of Management and Budget, which would be the President's principal arm for the exercise of his managerial functions.

The Domestic Council will be primarily concerned with what we do; the Office of Management and Budget will be primarily concerned with *how* we do it, and *how well* we do it.

DOMESTIC COUNCIL

The past year's experience with the Council for Urban Affairs has shown how immensely valuable a Cabinet-level council can be as a forum for both discussion and action on policy matters that cut across departmental jurisdictions.

The Domestic Council will be chaired by the President. Under the plan, its membership will include the Vice President, and the Secretaries of the Treasury, Interior, Agriculture, Commerce, Labor, Health, Education and Welfare, Housing and Urban Development, and Transportation, and the Attorney General. I also intend to designate as members the Director of the Office of Economic Opportunity and, while he remains a member of the Cabinet, the Postmaster General. (Although I continue to hope that the Congress will adopt my proposal to create, in place of the Post Office Department, a self-sufficient postal authority.) The President could add other Executive Branch officials at his discretion.

The Council will be supported by a staff under an Executive Director who will also be one of the President's assistants. Like the National Security Council staff, this staff will work in close coordination with the

President's personal staff but will have its own institutional identity. By being established on a permanent, institutional basis, it will be designed to develop and employ the ''institutional memory'' so essential if continuity is to be maintained, and if experience is to play its proper role in the policy-making process.

There does not now exist an organized, institutionally-staffed group charged with advising the President on the total range of domestic policy. The Domestic Council will fill that need. Under the President's direction, it will also be charged with integrating the various aspects of domestic policy into a consistent whole.

Among the specific policy functions in which I intend the Domestic Council to take the lead are these:

—Assessing national needs, collecting information and developing forecasts, for the purpose of defining national goals and objectives.

—Identifying alternative ways of achieving these objectives, and recommending consistent, integrated sets of policy choices.

—Providing rapid response to Presidential needs for policy advice on pressing domestic issues.

—Coordinating the establishment of national priorities for the allocation of available resources.

—Maintaining a continuous review of the conduct of ongoing programs from a policy standpoint, and proposing reforms as needed.

Much of the Council's work will be accomplished by temporary, ad hoc project committees. These might take a variety of forms, such as task forces, planning groups or advisory bodies. They can be established with varying degrees of formality, and can be set up to deal either with broad program areas or with specific problems. The committees will draw for staff support on Department and agency experts, supplemented by the Council's own staff and that of the Office of Management and Budget.

Establishment of the Domestic Council draws on the experience gained during the past year with the Council for Urban Affairs, the Cabinet Committee on the Environment and the Council for Rural Affairs. The principal key to the operation of these Councils has been the effective functioning of their various subcommittees. The Councils themselves will be consolidated into the Domestic Council; Urban, Rural and Environment subcommittees of the Domestic Council will be strengthened, using access to the Domestic Council staff.

Overall, the Domestic Council will provide the President with a streamlined, consolidated domestic policy arm, adequately staffed, and highly flexible in its operation. It also will provide a structure through which departmental initiatives can be more fully considered, and expert advice from the Departments and agencies more fully utilized.

OFFICE OF MANAGEMENT AND BUDGET

Under the reorganization plan, the technical and formal means by which the Office of Management and Budget is created is by re-designating the Bureau of the Budget as the Office of Management and Budget. The functions currently vested by law in the Bureau, or in its director, are transferred to the President, with the provision that he can then re-delegate them.

As soon as the reorganization plan takes effect, I intend to delegate those statutory functions to the Director of the new Office of Management and Budget, including those under section 212 of the Budget and Accounting Act, 1921 [31 U.S.C. 1113].

However, creation of the Office of Management and Budget represents far more than a mere change of name for the Bureau of the Budget. It represents a basic change in concept and emphasis, reflecting the broader management needs of the Office of the President.

The new Office will still perform the key function of assisting the President in the preparation of the annual Federal budget and overseeing its execution. It will draw upon the skills and experience of the extraordinarily able and dedicated career staff developed by the Bureau of the Budget. But preparation of the budget as such will no longer be its dominant, overriding concern.

While the budget function remains a vital tool of management, it will be strengthened by the greater emphasis the new office will place on fiscal analysis. The budget function is only one of several important management tools that the President must now have. He must also have a substantially enhanced institutional staff capability in other areas of executive management—particularly in program evaluation and coordination, improvement of Executive Branch organization, information and management systems, and development of executive talent. Under this plan, strengthened capability in these areas will be provided partly through internal reorganization, and it will also require additional staff resources.

The new Office of Management and Budget will place much greater emphasis on the evaluation of program performance: on assessing the extent to which programs are actually achieving their intended results, and delivering the intended services to the intended recipients. This is needed on a continuing basis, not as a one-time effort. Program evaluation will remain a function of the individual agencies as it is today. However, a single agency cannot fairly be expected to judge overall effectiveness in programs that cross agency lines—and the difference between agency and Presidential perspectives requires a capacity in the Executive Office to evaluate program performance whenever appropriate.

The new Office will expand efforts to improve interagency cooperation in the field. Washington-based coordinators will help work out interagency problems at the operating level, and assist in developing efficient coordinating mechanisms throughout the country. The success of these efforts depends on the experience, persuasion, and understanding of an Office which will be an expediter and catalyst. The Office will also respond to requests from State and local governments for assistance on intergovernmental programs. It will work closely with the Vice President and the Office of Intergovernmental Relations.

Improvement of Government organization, information and management systems will be a major function of the Office of Management and Budget. It will maintain a continuous review of the organizational structures and management processes of the Executive Branch, and recommend needed changes. It will take the lead in developing new information systems to provide the President with the performance and other data that he needs but does not now get. When new programs are launched, it will seek to ensure that they are not simply forced into or grafted onto existing organizational structures that may not be appropriate. Resistance to organizational change is one of the chief obstacles to effective government; the new Office will seek to ensure that organization keeps abreast of program needs.

The new Office will also take the lead in devising programs for the development of career executive talent throughout the Government. Not the least of the President's needs as Chief Executive is direct capability in the Executive Office for insuring that talented executives are used to the full extent of their abilities. Effective, coordinated efforts for executive manpower development have been hampered by the lack of a system for forecasting the needs for executive talent and appraising leadership potential. Both are crucial to the success of an enterprise—whether private or public.

The Office of Management and Budget will be charged with advising the President on the development of new programs to recruit, train, motivate, deploy, and evaluate the men and women who make up the top ranks of the civil service, in the broadest sense of that term. It will not deal with individuals, but will rely on the talented professionals of the Civil Service Commission and the Departments and agencies themselves to administer these programs. Under the leadership of the Office of Management and Budget there will be joint ef-

forts to see to it that all executive talent is well utilized wherever it may be needed throughout the Executive Branch, and to assure that executive training and motivation meet not only today's needs but those of the years ahead.

Finally, the new Office will continue the Legislative Reference functions now performed by the Bureau of the Budget, drawing together agency reactions on all proposed legislation, and helping develop legislation to carry out the President's program. It also will continue the Bureau's work of improving and coordinating Federal statistical services.

SIGNIFICANCE OF THE CHANGES

The people deserve a more responsive and more effective Government. The times require it. These changes will help provide it.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to Section 901(a)(1), ''to promote the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions, and the expeditious administration of the public business;'' and Section 901(a)(3), ''to increase the efficiency of the operations of the Government to the fullest extent practicable.''

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in Section 102(c) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the Executive Branch who have similar responsibilities.

While this plan will result in a modest increase in direct expenditures, its strengthening of the Executive Office of the President will bring significant indirect savings, and at the same time will help ensure that people actually receive the return they deserve for every dollar the Government spends. The savings will result from the improved efficiency these changes will provide throughout the Executive Branch—and also from curtailing the waste that results when programs simply fail to achieve their objectives. It is not practical, however, to itemize or aggregate these indirect expenditure reductions which will result from the reorganization.

I expect to follow with other reorganization plans, quite possibly including ones that will affect other activities of the Executive Office of the President. Our studies are continuing. But this by itself is a reorganization of major significance, and a key to the more effective functioning of the entire Executive Branch.

These changes would provide an improved system of policy making and coordination, a strengthened capacity to perform those functions that are now the central concerns of the Bureau of the Budget, and a more effective set of management tools for the performance of other functions that have been rapidly increasing in importance.

The reorganization will not only improve the staff resources available to the President, but will also strengthen the advisory roles of those members of the Cabinet principally concerned with domestic affairs. By providing a means of formulating integrated and systematic recommendations on major domestic policy issues, the plan serves not only the needs of the President but also the interests of the Congress.

This reorganization plan is of major importance to the functioning of modern government. The national interest requires it. I urge that the Congress allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, MARCH 12, 1970.

ABOLITION OF DOMESTIC COUNCIL

Domestic Council, established by Reorg. Plan No. 2 of 1970, §201, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2086, set out above, abolished by Reorg. Plan No. 1 of 1977, §3, 42 F.R. 56101, 91 Stat. 1633, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before Apr. 1, 1978, at such time as specified by President. Section 5D of Reorg. Plan No. 1 of 1977 transferred all functions vested in Domestic Council to President with power to delegate performance of such transferred functions within Executive Office of President.

EX. ORD. NO. 11541. PRESCRIBING DUTIES OF OFFICE OF MANAGEMENT AND BUDGET AND DOMESTIC COUNCIL

Ex. Ord. No. 11541, July 1, 1970, 35 F.R. 10737, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931; Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including section 301 of Title 3 of the United States Code, and pursuant to Reorganization Plan No. 2 of 1970 (hereinafter referred to as ''the Plan'') [set out as a note under this section], it is ordered as follows:

SECTION 1. (a) All functions transferred to the President of the United States by Part I of the Plan (including the function vested by section 102(f) of designating the officials of the Office of Management and Budget who shall act as Director during the absence or disability of the Deputy Director or in the event of a vacancy in the office of Deputy Director) are hereby delegated to the Director of the Office of Management and Budget in the Executive Office of the President. Such functions shall be carried out by the Director under the direction of the President and pursuant to such further instructions as the President from time to time may issue.

(b) All outstanding delegations, rules, regulations, orders, circulars, bulletins, or other forms of Executive or administrative action issued or taken by or relating to the Bureau of the Budget or the Director of the Bureau of the Budget prior to the effective date of this order shall, until amended or revoked, remain in full force and effect as if issued or taken by or relating to the Office of Management and Budget or the Director of the Office of Management and Budget.

(c) The delegation to the Director of the Office of Management and Budget, pursuant to subsection (a) of this Section, of the functions vested in the Director of the Bureau of the Budget by Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) [31 U.S.C. 1104(d)] and subsequently transferred to the President by Part I of Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), shall be implemented in accord with Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), to the extent that provision is applicable.

(d) The delegation to the Director of the Office of Management and Budget of the following executive development and personnel functions (which have been transferred to the Office of Personnel Management) is terminated on December 4, 1977:

(1) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development and management.

(2) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

(3) Providing primary Executive Branch leadership in (i) developing and reviewing a program of policy guidance to departments and agencies for the organization of management responsibility under the Federal Labor Relations program; and (ii) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.

SEC. 2. (a) Under the direction of the President and subject to such further instructions as the President from time to time may issue, the Domestic Council in the Executive Office of the President shall (1) receive

and develop information necessary for assessing national domestic needs and defining national domestic goals, and develop for the President alternative proposals for reaching those goals; (2) collaborate with the Office of Management and Budget and others in the determination of national domestic priorities for the allocation of available resources; (3) collaborate with the Office of Management and Budget and others to assure a continuing review of ongoing programs from the standpoint of their relative contributions to national goals as compared with their use of available resources; and (4) provide policy advice to the President on domestic issues.

(b) The organizations listed herein are terminated and the functions heretofore assigned to them shall be performed by the Domestic Council:

Council for Urban Affairs (Executive Order No. 11452 of January 23, 1969)

Cabinet Committee on the Environment (Executive Order No. 11472 of May 29, 1969, as amended by Executive Order No. 11514 of March 5, 1970)

Council for Rural Affairs (Executive Order No. 11493 of November 13, 1969)

SEC. 3. This order shall be effective July 1, 1970.

SUPERSEDURE OF EX. ORD. NO. 11541

Supersedure of Ex. Ord. No. 11541 to the extent that it is inconsistent with Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, see section 11(6) of Ex. Ord. No. 11609, set out as a note under section 301 of Title 3, The President; with Ex. Ord. No. 11713, Apr. 21, 1973, 38 F.R. 10069, see section 3 of Ex. Ord. No. 11713, set out as a note under section 301 of Title 3; with Ex. Ord. No. 11717, May 9, 1973, 38 F.R. 12315, see section 5 of Ex. Ord. No. 11717, set out below.

EXECUTIVE ORDER NO. 11647

Ex. Ord. No. 11647, Feb. 10, 1972, 37 F.R. 3167, as amended by Ex. Ord. No. 11731, July 23, 1973, 38 F.R. 19903; Ex. Ord. No. 11892, Dec. 31, 1975, 41 F.R. 751; Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, which established Federal Regional Councils, was revoked by section 1–307 of Ex. Ord. No. 12149, July 20, 1979, 44 F.R. 43248.

EX. ORD. NO. 11717. TRANSFER OF CERTAIN FUNCTIONS FROM OFFICE OF MANAGEMENT AND BUDGET TO GENERAL SERVICES ADMINISTRATION AND DEPARTMENT OF COMMERCE

Ex. Ord. No. 11717, May 9, 1973, 38 F.R. 12315, provided:

By virtue of the authority vested in me as President by the Constitution and Statutes of the United States, particularly by section 301 of title 3 of the United States Code, the Federal Property and Administrative Services Act of 1949, as amended, the Budget and Accounting Act, 1921, as amended, the Budget and Accounting Procedures Act of 1950, as amended, and Reorganization Plan No. 2 of 1970 [set out as a note above], it is hereby ordered as follows:

SECTION 1. There are hereby transferred to the Administrator of General Services all functions that were being performed in the Office of Management and Budget on April 13, 1973 by:

(1) The Financial Management Branch, the Procurement and Property Management Branch, and the Management Systems Branch of the Organization and Management Systems Division; and

(2) the Management Information and Computer Systems Division with respect to policy control over automatic data processing (except those functions relating to the establishment of Government-wide automatic data-processing standards).

SEC. 2. There are hereby transferred to the Secretary of Commerce all functions being performed on the date of this order in the Office of Management and Budget relating to the establishment of Government-wide automatic data processing standards, including the function of approving standards on behalf of the President pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended [former 40 U.S.C. 759(f)(2)].

SEC. 3. (a) The functions transferred to the Administrator of the General Services Administration and to the Secretary of Commerce by this order do not include those performed in connection with the general oversight responsibilities of the Director of the Office of Management and Budget, as the head of that agency and as Assistant to the President for executive management, and the functions transferred by this order shall be performed subject to such general oversight to the same extent that other functions of the General Services Administration and the Department of Commerce, respectively, are so performed.

(b) The functions vested in the President by the first sentence of section 111(g) of the Federal Property and Administrative Services Act of 1949, as amended [former 40 U.S.C. 759(g)], with respect to fiscal control of automatic data processing activities shall continue to be performed by the Director of the Office of Management and Budget. No function vested by statute in the Director shall be deemed to be affected by the provisions of this order.

SEC. 4. So much of the personnel, property, records and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available, in connection with the functions transferred by this order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Department of Commerce and the General Services Administration, respectively, at such times as the Director shall specify.

SEC. 5. Executive Order No. 11541 of July 1, 1970, is hereby superseded to the extent that it is inconsistent with this order.

SEC. 6. This order shall be effective as of April 15, 1973.

RICHARD NIXON.

SUPERSEDURE OF EX. ORD. NO. 11717

Ex. Ord. No. 11717 superseded to the extent that it is inconsistent with Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040, see section 4 of Ex. Ord. No. 11893, set out as a note under section 4252 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 12013

Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931, which related to transfer of certain statistical functions and the establishment of the Statistical Policy Coordination Committee, was revoked by section 4(a) of Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833, set out below.

EX. ORD. NO. 12027. TRANSFER OF CERTAIN EXECUTIVE DEVELOPMENT AND OTHER PERSONNEL FUNCTIONS

Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to transfer certain functions from the Director of the Office of Management and Budget to the Office of Personnel Management, it is hereby ordered as follows:

SECTION 1. The following functions which heretofore have been performed by the Director of the Office of Management and Budget, either alone or in conjunction with the Office of Personnel Management, are hereby reassigned and delegated to the Office of Personnel Management:

(a) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development, and management including:

(1) Devising and establishing programs and encouraging agencies to devise and establish programs to fore-

cast the need for career executive talent and to select, train, develop, motivate, deploy and evaluate the men and women who make up the top ranks of Federal civil service;

(2) Initiating and leading efforts to ensure that potential executive talent is identified, developed and well utilized throughout the Executive Branch and;

(3) Ensuring that executive training and motivation meet current and future needs.

(b) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

(c) Providing primary Executive Branch leadership in (1) developing and reviewing a program of policy guidance to departments and agencies for the organization of management's responsibility under the Federal Labor Relations program; and (2) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.

SEC. 2. Section 1 of Executive Order No. 11541, as amended [set out above], is further amended by adding thereto the following new subsection:

''(d) The delegation to the Director of the Office of Management and Budget of the following executive development and personnel functions (which have been transferred to the Office of Personnel Management) is terminated on December 4, 1977:

''(1) Providing overall Executive Branch leadership, regulation, and guidance in executive personnel selection, development and management.

''(2) Studying and reporting on issues relating to position classification and the compensation of Federal civilian employees, including linkages among pay systems, and providing reports on average grade levels, work-years and personnel costs of Federal civilian employees.

''(3) Providing primary Executive Branch leadership in (i) developing and reviewing a program of policy guidance to departments and agencies for the organization of management responsibility under the Federal Labor Relations program; and (ii) monitoring issues and trends in labor management relations for referral to appropriate Executive Branch officials including the Federal Labor Relations Council.''.

SEC. 3. Executive Order No. 11491, as amended [5 U.S.C. 7101 note], is further amended by amending Section 25(a) to read as follows:

''The Office of Personnel Management, in conjunction with the Director of the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and shall periodically review the implementation of these policies. The Office of Personnel Management shall be responsible for the day-to-day policy guidance under that program. The Office of Personnel Management also shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.''.

SEC. 4. Section 5(a) of Executive Order No. 11636 of December 17, 1971 [formerly set out as a note under 22 U.S.C. 801], establishing an Employee-Management Relations Commission as a committee of the Board of the Foreign Service, is amended by deleting: ''The representative of the Office of Management and Budget shall be the Chairman of the Commission'' and substituting therefor ''The representative of the Office of Personnel Management shall be the Chairman of the Commission''.

SEC. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned by this Order from the Office of Management and Budget to the Office of Personnel Management, are hereby transferred to the Office of Personnel Management.

SEC. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

SEC. 7. This Order shall be effective December 4, 1977.

JIMMY CARTER.

EXECUTIVE ORDER NO. 12074

Ex. Ord. No. 12074, Aug. 16, 1978, 43 F.R. 36875, which related to urban and community impact analyses, was revoked by Ex. Ord. No. 12350, Mar. 9, 1982, 47 F.R. 10503.

EXECUTIVE ORDER NO. 12149

Ex. Ord. No. 12149, July 20, 1979, 44 F.R. 43247, which established Federal Regional Councils, was revoked by section 4(b) of Ex. Ord. No. 12314, July 22, 1981, 46 F.R. 38330.

EXECUTIVE ORDER NO. 12301

Executive Order No. 12301, Mar. 26, 1981, 46 F.R. 19211, as amended by Ex. Ord. No. 13118, §10(5), Mar. 31, 1999, 64 F.R. 16598, which established the President's Council on Integrity and Efficiency in Federal programs, was revoked by Ex. Ord. No. 12625, Jan. 27, 1988, 53 F.R. 2812, formerly set out below.

EXECUTIVE ORDER NO. 12314

Ex. Ord. No. 12314, July 22, 1981, 46 F.R. 38329, which established Federal Regional Councils, was revoked by Ex. Ord. No. 12407, Feb. 22, 1983, 48 F.R. 7717.

EX. ORD. NO. 12318. TRANSFER OF CERTAIN STATISTICAL POLICY FUNCTIONS

Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833, provided:

By virtue of the authority vested in me as President by the Constitution and statutes of the United States, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App.), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], Section 3(a) of the Paperwork Reduction Act of 1980 (Public Law 96–511, 94 Stat. 2825, 44 U.S.C. 3503 note), and Section 301 of Title 3 of the United States Code, and in order to transfer, redelegate, and reassign certain statistical policy functions from the Secretary of Commerce to the Director of the Office of Management and Budget, and to require redelegation of certain functions to the Administrator for the Office of Information and Regulatory Affairs, it is hereby ordered as follows:

SECTION 1. Sec. 1(c) of Executive Order No. 11541 of July 1, 1970, as amended [set out as a note above], is amended by deleting the last phrase ''is terminated on October 9, 1977'' and substituting therefor ''shall be implemented in accord with Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), to the extent that provision is applicable''.

SEC. 2. Executive Order No. 10253 of July 11, 1951, as amended [31 U.S.C. 1104 note], is further amended as follows:

(a) ''Secretary of Commerce'' is deleted in Section 1 and ''Director of the Office of Management and Budget'' is substituted therefor.

(b) ''Secretary'' is deleted wherever it appears in Sections 1, 2, 4, 5, and 6 and ''Director'' is substituted therefor.

(c) ''Department of Commerce'' is deleted in Section 6 and ''Office of Management and Budget'' is substituted therefor.

(d) Section 7 is deleted and a new Section 7 is substituted therefor as follows:

''SEC. 7. As required by Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note),

the Director shall redelegate to the Administrator for the Office of Information and Regulatory Affairs, Office of Management and Budget, all functions, authority, and responsibility under Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) [31 U.S.C. 1104(d)] which have been vested in the Director by this Order.''

(e) Section 8 is revoked.

SEC. 3. Executive Order No. 10033, as amended [22 U.S.C. 286f note], is further amended as follows:

(a) ''Secretary of Commerce, hereinafter referred to as the Secretary,'', is deleted in Section 1 and ''Director of the Office of Management and Budget, hereinafter referred to as the Director,'', is substituted therefor.

(b) ''Secretary'' is deleted wherever it appears in Sections 2(a), 2(b), 2(c), 3, 4, and 5 and ''Director'' is substituted therefor.

(c) Section 7 is revoked.

SEC. 4. (a) Executive Order No. 12013 is revoked.

(b) Section 4 of Executive Order No. 11961, as amended [22 U.S.C. 3101 note], is further amended by deleting ''the Secretary of Commerce shall perform the functions set forth in Sections 4(a)(3) and 5(c) of the Act'' [22 U.S.C. 3103(a)(3), 3104(c)], and substituting therefor ''the Secretary of Commerce shall perform the function of making periodic reports to the Committees of the Congress as set forth in Section 4(a)(3) of the Act'' [22 U.S.C. 3103(a)(3)].

SEC. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned from the Secretary of Commerce to the Director of the Office of Management and Budget by the delegations made in this Order, are hereby transferred to the Director of the Office of Management and Budget.

SEC. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all steps necessary or appropriate to ensure or effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

SEC. 7. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned from the Secretary of Commerce to the Director of the Office of Management and Budget by the delegations made in this Order, shall remain in effect until amended, modified, or revoked pursuant to the delegations made in this Order.

SEC. 8. This Order shall be effective August 23, 1981.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12479

Ex. Ord. No. 12479, May 24, 1984, 49 F.R. 22243, which established President's Council on Management Improvement, assigned functions of Council and responsibilities of Chairman, and provided for administrative support, was revoked by Ex. Ord. No. 12816, Oct. 14, 1992, 57 F.R. 47562, formerly set below.

EXECUTIVE ORDER NO. 12552

Ex. Ord. No. 12552, Feb. 25, 1986, 51 F.R. 7041, which provided for establishment of a comprehensive program for improvement of productivity throughout all Executive departments and agencies, was superseded by Ex. Ord. No. 12637, Apr. 27, 1988, 53 F.R. 15349, formerly set out below, and was revoked by Ex. Ord. No. 13048, § 5, June 10, 1997, 62 F.R. 32469, set out below.

EX. ORD. NO. 12615. PERFORMANCE OF COMMERCIAL ACTIVITIES

Ex. Ord. No. 12615, Nov. 19, 1987, 52 F.R. 44853, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to facilitate ongoing efforts to ensure that the Federal Government acquires needed goods and services in the most economical and efficient manner, it is hereby ordered as follows:

SECTION 1. The head of each Executive department and agency shall, to the extent permitted by law:

(a) Ensure that new Federal Government requirements for commercial activities are provided by private industry, except where statute or national security requires government performance or where private industry costs are unreasonable;

(b) Identify by April 29, 1988, in cooperation with the Director of the Office of Management and Budget all commercial activities currently performed by government. The department and agency heads are encouraged to consult with the President's Commission on Privatization in making such identification;

(c) Schedule, by June 30, 1988, all commercial activities identified pursuant to subsection (b) for study in accordance with the procedures of OMB Circular No. A–76, as revised, and the Supplement thereto, to determine whether they could be performed more economically by private industry;

(d) Meet the study goals for Fiscal Year 1988 set forth in ''Management of the United States Government, Fiscal Year 1988''; and thereafter, beginning with Fiscal Year 1989, conduct annual studies of not less than 3 percent of the department or agency's total civilian population, until all identified potential commercial activities have been studied;

(e) Include in each annual budget proposal to the Office of Management and Budget estimates of expected yearly budget savings from the privatization of commercial activities projected to be accomplished following the completion of scheduled studies, unless an exception is authorized by the Director of the Office of Management and Budget. These estimates shall be based on analysis of savings under previous studies and estimated savings to be achieved from future conversions to contract. A department or agency proposal may reflect retention of expected first-year savings as negotiated with the Office of Management and Budget for use as incentive compensation to reward employees covered by the studies for their productivity efforts, or for use in other productivity enhancement projects;

(f) Develop and maintain an effective job placement program for government employees affected by privatization initiatives and cooperate fully in interagency placement efforts;

(g) Designate a senior-level official to coordinate the OMB Circular No. A–76 studies and other privatization efforts; and

(h) Report to the President on progress each quarter, through the Director of the Office of Management and Budget.

SEC. 2. The Director of the Office of Management and Budget shall, to the extent permitted by law:

(a) Issue guidance to departments and agencies to implement this Order. Such guidance shall be designed to ensure an equitable cost comparison of government-operated commercial activities with private industry performance of the same activities, and to improve the efficiency in the conduct of studies;

(b) Publish for public review (i) not later than 30 days after its completion, the inventory of commercial activities identified pursuant to section 1(b) and the activities scheduled for study by departments and agencies in Fiscal Year 1988 pursuant to section 1(c); and (ii) not later than 30 days before the start of each successive fiscal year, the list of activities to be reviewed during that year pursuant to section 1(d); and

(c) Establish a tracking system to monitor, on a quarterly basis, progress by departments and agencies in carrying out this Order.

SEC. 3. The Director of the Office of Personnel Management, in consultation with the heads of other Executive departments and agencies, shall review and revise, as necessary and to the extent permitted by law, personnel policies and regulations in order (a) to ensure that government managers have the flexibility to organize in the most effective and efficient manner to achieve levels of productivity comparable with those of private industry, and (b) to reduce any adverse effects of productivity improvements on employees.

SEC. 4. For purposes of this Order, the terms ''commercial activity,'' ''conversion to contract,'' and ''cost comparison'' shall have the meanings set forth in OMB Circular No. A–76, as revised.

SEC. 5. Nothing in this Order shall be construed to confer a private right of action on any person, or to add in any way to applicable procurement procedures required by existing law.

RONALD REAGAN.

EXECUTIVE ORDER NO. 12625

Ex. Ord. No. 12625, Jan. 27, 1988, 53 F.R. 2812, which established President's Council on Integrity and Efficiency as an interagency committee, was revoked by Ex. Ord. No. 12805, May 11, 1992, 57 F.R. 20627, formerly set out below.

EXECUTIVE ORDER NO. 12637

Ex. Ord. No. 12637, Apr. 27, 1988, 53 F.R. 15349, which established a productivity improvement program for the Federal Government, was revoked by Ex. Ord. No. 13048, §5, June 10, 1997, 62 F.R. 32469, set out below.

EX. ORD. NO. 12803. INFRASTRUCTURE PRIVATIZATION

Ex. Ord. No. 12803, Apr. 30, 1992, 57 F.R. 19063, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that the United States achieves the most beneficial economic use of its resources, it is hereby ordered as follows:

SECTION 1. *Definitions*. For purposes of this order:

(a) ''Privatization'' means the disposition or transfer of an infrastructure asset, such as by sale or by long-term lease, from a State or local government to a private party.

(b) ''Infrastructure asset'' means any asset financed in whole or in part by the Federal Government and needed for the functioning of the economy. Examples of such assets include, but are not limited to: roads, tunnels, bridges, electricity supply facilities, mass transit, rail transportation, airports, ports, waterways, water supply facilities, recycling and wastewater treatment facilities, solid waste disposal facilities, housing, schools, prisons, and hospitals.

(c) ''Originally authorized purposes'' means the general objectives of the original grant program; however, the term is not intended to include every condition required for a grantee to have obtained the original grant.

(d) ''Transfer price'' means: (i) the amount paid or to be paid by a private party for an infrastructure asset, if the asset is transferred as a result of competitive bidding; or (ii) the appraised value of an infrastructure asset, as determined by the head of the executive department or agency and the Director of the Office of Management and Budget, if the asset is not transferred as a result of competitive bidding.

(e) ''State and local governments'' means the government of any State of the United States, the District of Columbia, any commonwealth, territory, or possession of the United States, and any county, municipality, city, town, township, local public authority, school district, special district, intrastate district, regional or interstate governmental entity, council of governments, and any agency or instrumentality of a local government, and any federally recognized Indian Tribe.

SEC. 2. *Fundamental Principles*. Executive departments and agencies shall be guided by the following objectives and principles: (a) Adequate and well-maintained infrastructure is critical to economic growth. Consistent with the principles of federalism enumerated in Executive Order No. 12612 [formerly set out under section 601 of Title 5, Government Organization and Employees], and in order to allow the private sector to provide for infrastructure modernization and expansion, State and local governments should have greater freedom to privatize infrastructure assets.

(b) Private enterprise and competitively driven improvements are the foundation of our Nation's economy and economic growth. Federal financing of infrastructure assets should not act as a barrier to the achievement of economic efficiencies through additional private market financing or competitive practices, or both.

(c) State and local governments are in the best position to assess and respond to local needs. State and local governments should, subject to assuring continued compliance with Federal requirements that public use be on reasonable and nondiscriminatory terms, have maximum possible freedom to make decisions concerning the maintenance and disposition of their federally financed infrastructure assets.

(d) User fees are generally more efficient than general taxes as a means to support infrastructure assets. Privatization transactions should be structured so as not to result in unreasonable increases in charges to users.

SEC. 3. *Privatization Initiative*. To the extent permitted by law, the head of each executive department and agency shall undertake the following actions:

(a) Review those procedures affecting the management and disposition of federally financed infrastructure assets owned by State and local governments and modify those procedures to encourage appropriate privatization of such assets consistent with this order;

(b) Assist State and local governments in their efforts to advance the objectives of this order; and

(c) Approve State and local governments' requests to privatize infrastructure assets, consistent with the criteria in section 4 of this order and, where necessary, grant exceptions to the disposition requirements of the ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments'' common rule, or other relevant rules or regulations, for infrastructure assets; provided that the transfer price shall be distributed, as paid, in the following manner: (i) State and local governments shall first recoup in full the unadjusted dollar amount of their portion of total project costs (including any transaction and fix-up costs they incur) associated with the infrastructure asset involved; (ii) if proceeds remain, then the Federal Government shall recoup in full the amount of Federal grant awards associated with the infrastructure asset, less the applicable share of accumulated depreciation on such asset (calculated using the Internal Revenue Service accelerated depreciation schedule for the categories of assets in question); and (iii) finally, the State and local governments shall keep any remaining proceeds.

SEC. 4. *Criteria*. To the extent permitted by law, the head of an executive department or agency shall approve a request in accordance with section 3(c) of this order only if the grantee: (a) Agrees to use the proceeds described in section 3(c)(iii) of this order only for investment in additional infrastructure assets (after public notice of the proposed investment), or for debt or tax reduction; and

(b) Demonstrates that a market mechanism, legally enforceable agreement, or regulatory mechanism will ensure that: (i) the infrastructure asset or assets will continue to be used for their originally authorized purposes, as long as needed for those purposes, even if the purchaser becomes insolvent or is otherwise hindered from fulfilling the originally authorized purposes; and (ii) user charges will be consistent with any current Federal conditions that protect users and the public by limiting the charges.

SEC. 5. *Government-wide Coordination and Review*. In implementing Executive Order Nos. 12291 and 12498 [formerly set out under section 601 of Title 5, Government Organization and Employees] and OMB Circular No. A–19, the Office of Management and Budget, to the extent permitted by law and consistent with the provisions of those authorities, shall take action to ensure that the policies of the executive department and agencies are consistent with the principles, criteria, and requirements of this order. The Office of Management and Budget shall review the results of implementing this order and report thereon to the President 1 year after the date of this order.

SEC. 6. *Preservation of Existing Authority*. Nothing in this order is in any way intended to limit any existing authority of the heads of executive departments and agencies to approve privatization proposals that are otherwise consistent with law.

SEC. 7. *Judicial Review*. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH.

EXECUTIVE ORDER NO. 12805

Ex. Ord. No. 12805, May 11, 1992, 57 F.R. 20627, which related to integrity and efficiency in Federal programs, was omitted from the Code pursuant to Pub. L. 110–409, § 7(c)(2), Oct. 14, 2008, 122 Stat. 4313, which provided that Ex. Ord. No. 12805, as in effect before Oct. 14, 2008, was to have no force or effect on and after the earlier of either the date on which the Council of the Inspectors General on Integrity and Efficiency becomes effective and operational or the last day of the 180-day period beginning on Oct. 14, 2008. See section 7(c)(2) of Pub. L. 110–409, set out as an Effective Date; Existing Executive Orders note under section 11 of the Inspector General Act of 1978, Pub. L. 95–452, in the Appendix to Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12816

Ex. Ord. No. 12816, Oct. 14, 1992, 57 F.R. 47562, which established the President's Council on Management Improvement and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 13048, § 5, June 10, 1997, 62 F.R. 32469, set out below.

EX. ORD. NO. 12837. DEFICIT CONTROL AND PRODUCTIVITY IMPROVEMENT IN THE ADMINISTRATION OF THE FEDERAL GOVERNMENT

Ex. Ord. No. 12837, Feb. 10, 1993, 58 F.R. 8205, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Budget and Accounting Act of 1921, as amended (31 U.S.C. 1101 *et seq.*), and section 301 of title 3, United States Code, and in order to assist in the control of the Federal deficit and improve the administrative productivity of the Federal Government, it is hereby ordered as follows:

SECTION 1. All executive departments and agencies shall include a separate category for ''administrative expenses'' when submitting their appropriation requests to the Office of Management and Budget (OMB) for fiscal years 1994 through 1997. The Director of OMB (Director), in consultation with the agencies, shall establish and revise as necessary a definition of administrative expenses for the agencies. All questions regarding the definition of administrative expenses shall be resolved by the Director.

SEC. 2. The purpose of this order is to achieve real reductions in the administrative costs of Federal agencies. In order to accomplish that goal, agencies shall submit budgets that reflect the following reductions from the fiscal year 1993 baseline:

(a) For fiscal year 1994, all agencies shall submit budget requests that reflect no less than a 3 percent reduction in administrative expenses from the amount made available for fiscal year 1993 adjusted for inflation;

(b) For fiscal year 1995, all agencies shall submit budget requests that reflect no less than a 6 percent reduction in administrative expenses from the amounts made available for fiscal year 1993 adjusted for inflation;

(c) For fiscal year 1996, all agencies shall submit budget requests that reflect no less than a 9 percent reduction in administrative expenses from the amounts made available for fiscal year 1993 adjusted for inflation;

(d) For fiscal year 1997, all agencies shall submit budget requests that reflect no less than a 14 percent reduction in administrative expenses from the amounts made available for fiscal year 1993 adjusted for inflation.

SEC. 3. The Director shall review agency requests for administrative expenses. The Director shall ensure that all agency requests for such expenses are reduced in accordance with section 2. To the extent that any agency fails to comply with the mandates of section 2, the Director is authorized to reduce the request for administrative expenses in that agency's budget to achieve the appropriate reduction.

SEC. 4. All independent regulatory commissions and agencies are requested to comply with the provisions of this order.

WILLIAM J. CLINTON.

EX. ORD. NO. 12862. SETTING CUSTOMER SERVICE STANDARDS

Ex. Ord. No. 12862, Sept. 11, 1993, 58 F.R. 48257, provided:

Putting people first means ensuring that the Federal Government provides the highest quality service possible to the American people. Public officials must embark upon a revolution within the Federal Government to change the way it does business. This will require continual reform of the executive branch's management practices and operations to provide service to the public that matches or exceeds the best service available in the private sector.

NOW, THEREFORE, to establish and implement customer service standards to guide the operations of the executive branch, and by the authority vested in me as President by the Constitution and the laws of the United States, it is hereby ordered:

SECTION 1. *Customer Service Standards*. In order to carry out the principles of the National Performance Review, the Federal Government must be customer-driven. The standard of quality for services provided to the public shall be: Customer service equal to the best in business. For the purposes of this order, ''customer'' shall mean an individual or entity who is directly served by a department or agency. ''Best in business'' shall mean the highest quality of service delivered to customers by private organizations providing a comparable or analogous service.

All executive departments and agencies (hereinafter referred to collectively as ''agency'' or ''agencies'') that provide significant services directly to the public shall provide those services in a manner that seeks to meet the customer service standard established herein and shall take the following actions:

(a) identify the customers who are, or should be, served by the agency;

(b) survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services;

(c) post service standards and measure results against them;

(d) benchmark customer service performance against the best in business;

(e) survey front-line employees on barriers to, and ideas for, matching the best in business;

(f) provide customers with choices in both the sources of service and the means of delivery;

(g) make information, services, and complaint systems easily accessible; and

(h) provide means to address customer complaints.

SEC. 2. *Report on Customer Service Surveys*. By March 8, 1994, each agency subject to this order shall report on its customer surveys to the President. As information about customer satisfaction becomes available, each agency shall use that information in judging the performance of agency management and in making resource allocations.

SEC. 3. *Customer Service Plans*. By September 8, 1994, each agency subject to this order shall publish a customer service plan that can be readily understood by its customers. The plan shall include customer service standards and describe future plans for customer sur-

veys. It also shall identify the private and public sector standards that the agency used to benchmark its performance against the best in business. In connection with the plan, each agency is encouraged to provide training resources for programs needed by employees who directly serve customers and by managers making use of customer survey information to promote the principles and objectives contained herein.

SEC. 4. *Independent Agencies*. Independent agencies are requested to adhere to this order.

SEC. 5. *Judicial Review*. This order is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

EX. ORD. NO. 12893. PRINCIPLES FOR FEDERAL INFRASTRUCTURE INVESTMENTS

Ex. Ord. No. 12893, Jan. 26, 1994, 59 F.R. 4233, provided:

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. To develop and maintain its infrastructure facilities, our Nation relies heavily on investments by the Federal Government.

Our Nation will achieve the greatest benefits from its infrastructure facilities if it invests wisely and continually improves the quality and performance of its infrastructure programs. Therefore, 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. *Scope*. The principles and plans referred to in this order shall apply to Federal spending for infrastructure programs. For the purposes of this order, Federal spending for infrastructure programs shall include direct spending and grants for transportation, water resources, energy, and environmental protection.

SEC. 2. *Principles of Federal Infrastructure Investment*.

Each executive department and agency with infrastructure responsibilities (hereinafter referred to collectively as ''agencies'') shall develop and implement plans for infrastructure investment and management consistent with the following principles:

(a) *Systematic Analysis of Expected Benefits and Costs*. Infrastructure investments shall be based on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures, in accordance with the following:

(1) Benefits and costs should be quantified and monetized to the maximum extent practicable. All types of benefits and costs, both market and nonmarket, should be considered. To the extent that environmental and other nonmarket benefits and costs can be quantified, they shall be given the same weight as quantifiable market benefits and costs.

(2) Benefits and costs should be measured and appropriately discounted over the full life cycle of each project. Such analysis will enable informed tradeoffs among capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public.

(3) When the amount and timing of important benefits and costs are uncertain, analyses shall recognize the uncertainty and address it through appropriate quantitative and qualitative assessments.

(4) Analyses shall compare a comprehensive set of options that include, among other things, managing demand, repairing facilities, and expanding facilities.

(5) Analyses should consider not only quantifiable measures of benefits and costs, but also qualitative measures reflecting values that are not readily quantified.

(b) *Efficient Management*. Infrastructure shall be managed efficiently in accordance with the following:

(1) The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

(2) Agencies should use these reviews to consider a variety of management practices that can improve the return from infrastructure investments. Examples include contracting practices that reward quality and innovation, and design standards that incorporate new technologies and construction techniques.

(3) Agencies also should use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can often best be achieved by properly pricing infrastructure, the Federal Government—through its direct investments, grants, and regulations—should promote consideration of market-based mechanisms for managing infrastructure.

(c) *Private Sector Participation*. Agencies shall seek private sector participation in infrastructure investment and management. Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of the infrastructure programs referred to in section 1 of this order. Consistent with the public interest, agencies should work with State and local entities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

(d) *Encouragement of More Effective State and Local Programs*. To promote the efficient use of Federal infrastructure funds, agencies should encourage the State and local recipients of Federal grants to implement planning and information management systems that support the principles set forth in section 2(a) through (c) of this order. In turn, the Federal Government should use the information from the State and local recipients' management systems to conduct the system-level reviews of the Federal Government's infrastructure programs that are required by this order.

SEC. 3. *Submission of Plans*. Agencies shall submit initial plans to implement these principles to the Director of the Office of Management and Budget (''OMB'') by March 15, 1994. Agency plans shall list the actions that will be taken to provide the data and analysis necessary for supporting infrastructure-related proposals in future budget submissions. Agency implementation plans should be consistent with OMB Circular A–94 that outlines the analytical methods required under the principles set forth in section 2 of this order.

SEC. 4. *Application to Budget Submissions*. Beginning with the fiscal year 1996 budget submission to OMB, each agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with annual budgetary resources in excess of $50 million.

SEC. 5. *Application to Legislative Proposals*. Beginning March 15, 1994, agencies shall employ the principles set forth in section 2 of this order and, at the request of OMB, shall provide supporting analyses when requesting OMB clearance for legislative proposals that would authorize or reauthorize infrastructure programs.

SEC. 6. *Guidance*. The Office of Management and Budget shall provide guidance to the agencies on the implementation of this order.

SEC. 7. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13048. IMPROVING ADMINISTRATIVE MANAGEMENT IN THE EXECUTIVE BRANCH

Ex. Ord. No. 13048, June 10, 1997, 62 F.R. 32467, as amended by Ex. Ord. No. 13284, § 7, Jan. 23, 2003, 68 F.R. 4075, provided:

Improvement of Government operations is a continuing process that benefits from interagency activities. One group dedicated to such activities is the Presi-

dent's Council on Management Improvement (PCMI), established by Executive Order 12479 in 1984, reestablished by Executive Order 12816 in 1992. In the intervening years, some activities of the PCMI have been assumed by the President's Management Council, the Chief Financial Officers Council, and the Chief Information Officers Council. These organizations are also focussed on improving agencies' use of quality management principles. Other functions have been assigned to individual agencies. Nonetheless, remaining administrative management matters deserve attention across agency lines.

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to improve agency administrative and management practices throughout the executive branch, I hereby direct the following:

SECTION 1. *Interagency Council on Administrative Management*.

(a) *Purpose and Membership*. An Interagency Council on Administrative Management (''Council'') is established as an interagency coordination mechanism. The Council shall be composed of the Deputy Director for Management of the Office of Management and Budget, who shall serve as Chair, and one senior administrative management official from each of the following agencies:

1. Department of State;
2. Department of the Treasury;
3. Department of Defense;
4. Department of Justice;
5. Department of the Interior;
6. Department of Agriculture;
7. Department of Commerce;
8. Department of Labor;
9. Department of Health and Human Services;
10. Department of Housing and Urban Development;
11. Department of Transportation;
12. Department of Energy;
13. Department of Education;
14. Department of Veterans Affairs;
15. Department of Homeland Security;
16. Environmental Protection Agency;
17. Federal Emergency Management Agency;
18. Central Intelligence Agency;
19. Small Business Administration;
20. Department of the Army;
21. Department of the Navy;
22. Department of the Air Force;
23. National Aeronautics and Space Administration;
24. Agency for International Development;
25. General Services Administration;
26. National Science Foundation; and
27. Office of Personnel Management.

Department and agency heads shall advise the Chair of their selections for membership on the Council. Council membership shall also include representatives of the Chief Financial Officers Council, the Chief Information Officers Council, the Federal Procurement Council, the Interagency Advisory Group of Federal Personnel Directors, and the Small Agency Council, as well as at-large members appointed by the Chair, as he deems appropriate. The Chair shall invite representatives of the Social Security Administration to participate in the Council's work, as appropriate. The Council shall select a Vice Chair from among the Council's membership.

(b) The Council shall plan, promote, and recommend improvements in Government administration and operations and provide advice to the Chair on matters pertaining to the administrative management of the Federal Government. The Council shall:

(1) explore opportunities for more effective use of Government resources;

(2) support activities and initiatives of the President's Management Council, the Chief Financial Officers Council, the Chief Information Officers Council, the Federal Procurement Council, and the Interagency Advisory Group of Federal Personnel Directors designed to develop, review, revise, and implement Governmentwide administrative management policies; and

(3) identify successful administrative management practices, including quality management practices, and assist in their Governmentwide dissemination and implementation.

SEC. 2. *Responsibilities of the Chair*. The Chair or, if the Chair chooses, the Vice Chair shall:

(1) convene meetings of the Council;

(2) preside at formal council meetings;

(3) establish committees or working groups of the Council, as necessary for efficient conduct of Council functions; and

(4) appoint, to the extent permitted by law and consistent with personnel practices, other full-time officers or employees of the Federal Government to the Council as at-large members for specific terms, not exceeding 2 years, to provide expertise to the Council.

SEC. 3. *Responsibilities of Agency Heads*. To the extent permitted by law, heads of departments or agencies represented on the Council shall provide their representatives with administrative support needed to support Council activities.

SEC. 4. *Judicial Review*. This order is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 5. *Revocation*. Executive Order 12816 (creating the President's Council on Management Improvement), Executive Order 12552 (establishing the executive branch productivity improvement program) and Executive Order 12637 (revising the executive branch productivity improvement program) are revoked.

IMPLEMENTING MANAGEMENT REFORM IN EXECUTIVE BRANCH

Memorandum of President of the United States, Oct. 1, 1993, 58 F.R. 52393, which directed the head of executive departments and agencies, and requested independent agencies, to establish a chief operating officer and implement additional agency management reforms and established the President's Management Council to advise and assist the President and Vice President in ensuring that such reforms were implemented, was revoked by Memorandum of President of the United States, July 11, 2001, 66 F.R. 37105, set out below.

IMPLEMENTING GOVERNMENT REFORM

Memorandum of President of the United States, July 11, 2001, 66 F.R. 37105, provided:

Memorandum for the Heads of Executive Departments and Agencies

Throughout the campaign and in my Budget, I have called for ''active, but limited'' Government: one that empowers States, cities, and citizens to make decisions; ensures results through accountability; and promotes innovation through competition. Thus, if reform is to help the Federal Government adapt to a rapidly changing world, its primary objectives must be a Government that is:

- Citizen-centered—not bureaucracy centered;
- Results-oriented—not process-oriented; and
- Market-based—actively promoting, not stifling, innovation and competition.

In order to establish and implement Government reform throughout the executive branch, I hereby direct the following:

1. *Establish Chief Operating Officers*.

Each agency head shall designate a Chief Operating Officer, who shall be the senior official with agency-wide authority on behalf of the Secretary or agency head. The Chief Operating Officer, the equivalent of the Deputy Secretary, shall report directly to the agency head and shall be responsible for:

(a) implementing the President's and agency head's goals and the agency's mission;

(b) providing overall organization management to improve agency performance;

(c) assisting the agency head in promoting Government reform, developing strategic plans, and measuring results; and

(d) overseeing agency-specific efforts to integrate performance and budgeting, expand competitive sourcing, strengthen their workforce, improve financial management, advance e-government, apply information policy and technology policies, and other Government-wide management reforms.

2. *Implement Additional Agency Reforms.*

Each agency head shall identify and implement additional changes within the agency that will promote the principles of government reform.

3. *Establishment of President's Management Council.*

In order to advise and assist the President in ensuring that Government reform is implemented throughout the executive branch, I hereby establish the President's Management Council (''Council''). The Council shall comprise:

(a) The Deputy Director, Office of Management and Budget;

(b) The Chief Operating Officers from the following agencies:

(1) Department of State;
(2) Department of the Treasury;
(3) Department of Defense;
(4) Department of Justice;
(5) Department of the Interior;
(6) Department of Agriculture;
(7) Department of Commerce;
(8) Department of Labor;
(9) Department of Health and Human Services;
(10) Department of Housing and Urban Development;
(11) Department of Transportation;
(12) Department of Energy;
(13) Department of Education; and
(14) Department of Veterans Affairs.

(c) The following central management agency representatives:

(1) Director of the Office of Personnel Management;
(2) Administrator of General Services;

(d) Chief Operating Officers of the following agencies:

(1) Environmental Protection Agency;
(2) National Aeronautics and Space Administration;
(3) National Science Foundation;
(4) Social Security Administration; and
(5) Federal Emergency Management Agency.

(e) Chief Operating Officers of three other executive branch agencies designated by the Chairperson, in his or her discretion;

(f) Assistant to the President and Cabinet Secretary;

(g) Deputy Assistant to the President for Management and Administration; and

(h) Deputy Chief of Staff to the Vice President; and

(i) Such other officials of the executive departments and agencies as the Director of the Office of Management and Budget or I may, from time to time, designate.

The Deputy Director of the Office of Management and Budget shall serve as Chairperson of the Council. The Chairperson of the Council may appoint a Vice-Chairperson from the Council's membership to assist the Chairperson in conducting affairs of the Council.

The functions of the Council shall include, among others:

(a) improving overall executive branch management, including implementation of the President's Management Agenda;

(b) coordinating management-related efforts to improve Government throughout the executive branch and, as necessary, resolving specific interagency management issues;

(c) ensuring the adoption of new management practices in agencies throughout the executive branch; and

(d) identifying examples of, and providing mechanisms for, interagency exchange of information about best management practices.

The Council shall seek advice and information as appropriate from nonmember Federal agencies, particularly smaller agencies. The Council shall also consider the management reform experience of corporations, nonprofit organizations, State and local governments, Government employees, public sector unions, and customers of Government services.

Agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.

4. *Independent Agencies.*

Independent agencies are requested to comply with this memorandum.

5. *Revocation and Judicial Review.*

(a) the memorandum of October 1, 1993, entitled ''Implementing Management Reform in the Executive Branch'' is revoked.

(b) this memorandum is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

6. *Publication.*

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

## § 502. Officers

(a) The head of the Office of Management and Budget is the Director of the Office of Management and Budget. The Director is appointed by the President, by and with the advice and consent of the Senate. Under the direction of the President, the Director shall administer the Office.

(b) The Office has a Deputy Director of the Office of Management and Budget, appointed by the President, by and with the advice and consent of the Senate. The Deputy Director—

(1) shall carry out the duties and powers prescribed by the Director; and

(2) acts as the Director when the Director is absent or unable to serve or when the office of Director is vacant.

(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director for Management shall be the chief official responsible for financial management in the United States Government.

(d) The Office has 3 Assistant Directors who shall carry out the duties and powers prescribed by the Director.

(e) The Office may have not more than 6 additional officers, each of whom is appointed in the competitive service by the Director, with the approval of the President. Each additional officer shall carry out the duties and powers prescribed by the Director. The Director shall specify the title of each additional officer.

(f) When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant, the President may designate an officer of the Office to act as Director.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886; Pub. L. 101–576, title II, § 201, Nov. 15, 1990, 104 Stat. 2839.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 502(a) ..... | 31:16(2d sentence related to Director). | June 10, 1921, ch. 18, § 207(2d, 3d sentences), 42 Stat. 22; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; July 31, 1953, ch. 302, § 101(1st proviso in par. under heading ''Bureau of the Budget''), 67 Stat. 299; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), (b), (d), (e), (f)(less words between parentheses), 84 Stat. 2085; Mar. 2, 1974, Pub. L. 93–250, § 1, 88 Stat. 11. |
| 502(b) ..... | 31:16(2d sentence related to Deputy Director, 3d sentence). | |
| 502(c) ..... | 31:16a. | Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; July 31, 1953, ch. 302, § 101(last proviso in par. under heading ''Bureau of the Budget''), 67 Stat. 299; Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 657; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(b), (e), 84 Stat. 2085. |
| | 31:16c. | Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; Aug. 1, 1956, ch. 838, 70 Stat. 887; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(b), (e), 84 Stat. 2085. |
| 502(d), (e) | 31:16(note). | Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(c)(words before last comma), (e), (f)(words between parentheses), 84 Stat. 2085. |

In subsections (a) and (b), the words related to salaries in section 207 of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 22), are omitted as covered by 5:5313(11) and 5314(34).

In subsection (a), the text of section 102(d)(1st sentence) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) is omitted as covered by 3:301 and for consistency in the revised title and with other titles of the United States Code. The word ''administer'' is substituted for ''supervise and direct the administration of'' in section 102(d) of the Reorganization Plan to eliminate unnecessary words.

In subsections (b) and (c), the words ''designated by this reorganization plan'' in section 102(e) of Reorganization Plan No. 2 of 1970 are omitted as executed. The words ''carry out the duties and powers prescribed by'' are substituted for ''perform such functions as'' for consistency in the revised title and with other titles of the Code. The words ''may from time to time direct'' are omitted as unnecessary.

In subsection (c), the words ''the duties and powers prescribed by'' in section 102(e)(related to Assistant Directors) of Reorganization Plan No. 2 of 1970 are substituted for ''such functions as'' for consistency. The words ''may from time to time direct'' are omitted as unnecessary. The words related to compensation in 31:16c are omitted as covered by 5:5315(37).

In subsection (d), the words ''as determined from time to time by the Director of the Office of Management and Budget (hereinafter referred to as the Director)'' in section 102(c)(1st sentence) of Reorganization Plan No. 2 of 1970 are omitted as unnecessary. The words ''in the competitive'' are substituted for ''under the classified civil'' in section 102(c)(2d sentence) of the Reorganization Plan to conform to 5:2102. The words ''The Director shall specify the title of each additional officer'' are substituted for ''shall have such title as the Director shall from time to time determine'' to eliminate unnecessary words. The words ''provided for in subsection (c) of this section'' in section 102(e)(related to officers) of the Reorganization Plan are omitted because of the restatement. The words ''carry out the duties and powers prescribed by'' are substituted for ''perform such functions as'' for consistency in the revised title and with other titles of the Code. The words ''may from time to time direct'' are omitted as unnecessary.

In subsection (e), the words ''When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant'' are substituted for ''or during the absence or disability of the Deputy Director or in the event of a vacancy in the office of Deputy Director'' and ''during the absence or disability of the Director or in the event of a vacancy in the office of Director'' in section 102(f)(words between parentheses) of Reorganization Plan No. 2 of 1970 for clarity and consistency with other titles of the Code. The words ''an officer'' are substituted for ''such other officials'' for clarity and consistency in the chapter. The words ''in such order as'' are omitted as unnecessary. The words ''from time to time'' are eliminated as unnecessary.

AMENDMENTS

1990—Subsecs. (c) to (f). Pub. L. 101–576 added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

## § 503. Functions of Deputy Director for Management

(a) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions:

(1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.

(2) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.

(3) Review agency budget requests for financial management systems and operations, and advise the Director on the resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.

(4) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they are in accordance with financial management plans of the Office of Management and Budget.

(5) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

(6) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

(7) Develop and maintain qualification standards for agency Chief Financial Officers and for agency Deputy Chief Financial Officers appointed under sections 901 and 903, respectively (excluding any officer designated or appointed under section 901(c)).

(8) Provide advice to agency heads with respect to the selection of agency Chief Finan-

cial Officers and Deputy Chief Financial Officers (excluding any officer designated or appointed under section 901(c)).

(9) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

(10) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

(11) Settle differences that arise among agencies regarding the implementation of financial management policies.

(12) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

(13) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

(14) Issue such other policies and directives as may be necessary to carry out this section, and perform any other function prescribed by the Director.

(b) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

(1) Coordinate and supervise the general management functions of the Office of Management and Budget.

(2) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to—

(A) managerial systems, including the systematic measurement of performance;

(B) procurement policy;

(C) grant, cooperative agreement, and assistance management;

(D) information and statistical policy;

(E) property management;

(F) human resources management;

(G) regulatory affairs; and

(H) other management functions, including organizational studies, long-range planning, program evaluation, productivity improvement, and experimentation and demonstration programs.

(3) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

(4) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government operations and to remove impediments to effective administration.

(5) Chair the Chief Information Officers Council established under section 3603 of title 44.

(6) Provide leadership in management innovation, through—

(A) experimentation, testing, and demonstration programs; and

(B) the adoption of modern management concepts and technologies.

(7) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

(8) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

(9) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

(10) Perform any other functions prescribed by the Director.

(Added Pub. L. 101–576, title II, § 202(b), Nov. 15, 1990, 104 Stat. 2839; amended Pub. L. 103–272, § 4(f)(1)(B), July 5, 1994, 108 Stat. 1361; Pub. L. 106–58, title VI, § 638(g), Sept. 29, 1999, 113 Stat. 476; Pub. L. 107–347, title I, § 102(b), Dec. 17, 2002, 116 Stat. 2910.)

REFERENCES IN TEXT

Section 302 of the Chief Financial Officers Act of 1990 [Pub. L. 101–576], referred to in subsec. (a)(12), is set out as a note under section 901 of this title.

PRIOR PROVISIONS

A prior section 503 was renumbered section 505 of this title.

AMENDMENTS

2002—Subsec. (b)(5) to (10). Pub. L. 107–347 added par. (5) and redesignated former pars. (5) to (9) as (6) to (10), respectively.

1999—Subsec. (a)(7). Pub. L. 106–58, § 638(g)(1), substituted ''respectively (excluding any officer designated or appointed under section 901(c)).'' for ''respectively.''

Subsec. (a)(8). Pub. L. 106–58, § 638(g)(2), substituted ''Officers (excluding any officer designated or appointed under section 901(c)).'' for ''Officers.''

1994—Subsec. (b)(9). Pub. L. 103–272 substituted ''Perform'' for ''perform''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a)(1) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–58, title VI, § 638(h), Sept. 29, 1999, 113 Stat. 476, provided that: ''This section [amending this section and sections 901 and 1105 of this title and enacting provisions set out as a note under section 901 of this title] shall take effect at noon on January 20, 2001.''

## § 504. Office of Federal Financial Management

(a) There is established in the Office of Management and Budget an office to be known as the ''Office of Federal Financial Management''. The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(a) of this title.

(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The

Controller shall be appointed from among individuals who possess—

(1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and

(2) extensive practical experience in financial management in large governmental or business entities.

(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(a).

(Added Pub. L. 101–576, title II, § 203(a), Nov. 15, 1990, 104 Stat. 2841.)

PRIOR PROVISIONS

A prior section 504 was renumbered section 506 of this title.

### § 505. Office of Information and Regulatory Affairs

The Office of Information and Regulatory Affairs, established under section 3503 of title 44, is an office in the Office of Management and Budget.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886, § 503; renumbered § 505, Pub. L. 101–576, title II, § 202(a), Nov. 15, 1990, 104 Stat. 2839.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 503 ..... | (no source). | |

The section is included to provide in subchapter I of chapter 5 of the revised title a complete list of the organizational units established by law that are in the Office of Management and Budget or are subject to the direction and supervision of the Director of the Office of Management and Budget.

AMENDMENTS

1990—Pub. L. 101–576 renumbered section 503 of this title as this section.

### § 506. Office of Federal Procurement Policy

The Office of Federal Procurement Policy, established under section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404(a)), is an office in the Office of Management and Budget.

(Added Pub. L. 97–452, § 1(1)(A), Jan. 12, 1983, 96 Stat. 2467, § 504; renumbered § 506, Pub. L. 101–576, title II, § 202(a), Nov. 15, 1990, 104 Stat. 2839.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 504 ..... | (no source). | |

The section is included to provide in subchapter I of chapter 5 of title 31 a complete list of the organizational units established by law that are in the Office of Management and Budget or are subject to the direction and supervision of the Director of the Office of Management and Budget.

AMENDMENTS

1990—Pub. L. 101–576 renumbered section 504 of this title as this section.

### § 507. Office of Electronic Government

The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.

(Added Pub. L. 107–347, title I, § 102(c)(1), Dec. 17, 2002, 116 Stat. 2910.)

EFFECTIVE DATE

Section effective 120 days after Dec. 17, 2002, see section 402(a)(1) of Pub. L. 107–347, set out as a note under section 3601 of Title 44, Public Printing and Documents.

## SUBCHAPTER II—ADMINISTRATIVE

### § 521. Employees

The Director of the Office of Management and Budget shall appoint and fix the pay of employees of the Office under regulations prescribed by the President.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 521 ..... | 31:17(a)(related to employees). | June 10, 1921, ch. 18, § 208(a)(related to employees), 42 Stat. 22; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |

The words ''attorneys and other'' are omitted as being included in ''employees''.

### § 522. Necessary expenditures

The Director of the Office of Management and Budget may make necessary expenditures for the Office under regulations prescribed by the President.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 886.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 522 ..... | 31:17(a)(related to expenses). | June 10, 1921, ch. 18, § 208(a)(related to expenses), 42 Stat. 22; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |

The words ''for rent in the District of Columbia, printing, binding, telegrams, telephone service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, and'' are omitted as covered by titles 5, 40, and 44, and as being included in ''necessary expenditures''. The words ''within the appropriations made therefor'' are omitted as unnecessary.

# CHAPTER 7—GOVERNMENT ACCOUNTABILITY OFFICE

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703. Comptroller General and Deputy Comptroller General.
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776. Payment of survivor benefits.
777. Annuity increases.
778. Dependency and disability decisions.
779. Use of appropriations.

SUBCHAPTER VI—PROPERTY MANAGEMENT

781. Authority over the General Accounting Office Building.
782. Leasing of space in the General Accounting Office Building.
783. Rules and regulations.

AMENDMENTS

2008—Pub. L. 110–323, § 5(c), Sept. 22, 2008, 122 Stat. 3547, added item 705.

2004—Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814, substituted ''GOVERNMENT ACCOUNTABILITY OFFICE'' for ''GENERAL ACCOUNTING OFFICE'' in chapter heading and ''Government Accountability Office'' for ''General Accounting Office'' in item 702.

2000—Pub. L. 106–303, § 4(a)(3), Oct. 13, 2000, 114 Stat. 1069, added item 732a.

1994—Pub. L. 103–272, § 4(f)(1)(C), July 5, 1994, 108 Stat. 1362, struck out ''Sec.'' immediately above item 781.

1988—Pub. L. 100–545, § 2(a), Oct. 28, 1988, 102 Stat. 2728, added subchapter VI heading and items 781 to 783.

## SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

### § 701. Definitions

In this chapter—

(1) ''agency'' includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) ''appropriations'' means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 887.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 701(1) ..... | 31:2(1st–4th pars.). | June 10, 1921, ch. 18, § 2(1st–5th pars.), 42 Stat. 20; Apr. 3, 1939, ch. 36, § 201, 53 Stat. 565; July 31, 1953, ch. 302, § 101(1st proviso in par. under heading ''Bureau of the Budget''), 67 Stat. 299. |
| 701(2) ..... | 31:2(last par.). | June 10, 1921, ch. 18, 42 Stat. 20, § 2(last par.); added Sept. 12, 1950, ch. 946, § 101, 64 Stat. 832. |

In clause (1), ''agency'' (which is defined for purposes of this title in section 101 to mean a department, agency, or instrumentality of the United States) is coextensive with and substituted for the term ''department or establishment'' which was defined in 31:2 as in part meaning ''any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including any independent regulatory commission or board''. This definition merely restates and continues, and does not in any way change or expand, the definition in 31:2. Under that definition, entities such as the Tennessee Valley Authority that have been interpreted to be outside the purview of the definition will continue to be outside the purview in the same manner and to the same extent that they were under 31:2. The words ''includes the District of Columbia government'' are used because of existing law but the inclusion of these words is not to be interpreted as construing the extent to which the District of Columbia Self-Government and Governmental Reorganizational Act (Pub. L. 93–198, 87 Stat. 774) supersedes the provisions codified in this title. The words ''of the United States'' are omitted as surplus. The text of 31:2 (2d–4th pars.) is omitted as unnecessary because of the restatement. The text of section 2 (3d par.) of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 20), is omitted as obsolete because of section 501 of the revised title.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–323, § 1(a), Sept. 22, 2008, 122 Stat. 3539, provided that: ''This Act [enacting section 705 of this title, amending sections 731 to 733, 735, and 3521 of this title and section 109 of the Ethics in Government Act of 1978, Pub. L. 95–521, set out in the Appendix to Title 5, Government Organization and Employees, enacting provisions set out as notes under sections 705, 732, and 3523 of this title, and repealing provisions set out as a note under section 3523 of this title] may be cited as the 'Government Accountability Office Act of 2008'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–271, § 1(a), July 7, 2004, 118 Stat. 811, provided that: ''This Act [see Tables for classification] may be cited as the 'GAO Human Capital Reform Act of 2004'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–316, § 1, Oct. 19, 1996, 110 Stat. 3826, provided that: ''This Act [see Tables for classification] may be cited as the 'General Accounting Office Act of 1996'.''

[1] Section catchline amended by Pub. L. 107–296 without corresponding amendment of chapter analysis.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–426, § 1, Sept. 9, 1988, 102 Stat. 1598, provided that: ''This Act [amending sections 703, 732, 751, 752, 755, 771 to 774, 776, and 777 of this title and section 5349 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 755 and 772 of this title] may be cited as the 'General Accounting Office Personnel Amendments Act of 1988'.''

## § 702. Government Accountability Office

(a) The Government Accountability Office is an instrumentality of the United States Government independent of the executive departments.

(b) The head of the Office is the Comptroller General of the United States. The Office has a Deputy Comptroller General of the United States.

(c) The Comptroller General may adopt a seal for the Office.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 887; Pub. L. 100–545, § 2(b), Oct. 28, 1988, 102 Stat. 2729; 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)* |
|---|---|---|
| 702(a) ..... | 31:41(1st sentence less last 14 words, 2d, 3d sentences). | June 10, 1921, ch. 18, § 301, 42 Stat. 23. |
| 702(b) ..... | 31:41(1st sentence last 14 words). | |
| | 31:42(a)(1st sentence words before comma). | June 10, 1921, ch. 18, § 302(a)(1st sentence words before 1st comma), 42 Stat. 23; Apr. 3, 1980, Pub. L. 96–226, § 104(a), 94 Stat. 314. |
| | 31:1154(d)(1st sentence). | Oct. 26, 1970, Pub. L. 91–510, § 204(d)(1st sentence), 84 Stat. 1168; restated July 12, 1974, Pub. L. 93–344, § 702(a), 88 Stat. 326. |
| | 31:1155(a). | Oct. 26, 1970, Pub. L. 91–510, § 205(a), 84 Stat. 1168. |
| 702(c) ..... | 31:51–1. | Jan. 2, 1975, Pub. L. 93–604, § 501(a), 88 Stat. 1962. |
| 702(d) ..... | 31:41(last sentence). | |

In subsection (a), the words ''instrumentality of the United States Government'' are substituted for ''establishment of the Government'' for consistency. The words ''created . . . to be'' and 31:41(2d, 3d sentences) are omitted as executed.

Subsection (b) is substituted for 31:41(1st sentence last 14 words) and 42(a)(1st sentence words before comma) to eliminate unnecessary words and for consistency. The word ''Deputy'' is substituted for ''Assistant'' because of section 101 of the Act of July 9, 1971 (Pub. L. 92–51, 85 Stat. 143). The text of 31:1154(d)(1st sentence) and 1155(a) is omitted as unnecessary because the Comptroller General, as the head of the Office, has the authority to establish constituent parts of the Office to carry out duties and powers unless otherwise specified by law.

In subsection (c), the words ''Administrator of General Services'' are substituted for ''the head of any Federal agency which exercises authority over such building'' for clarity. The words ''of the United States'' are omitted as surplus.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in section catchline and subsec. (a).

1988—Subsecs. (c), (d). Pub. L. 100–545 redesignated subsec. (d) as (c) and struck out former subsec. (c) which directed Administrator of General Services to provide Comptroller General with space in General Accounting Office Building.

CHANGE OF NAME

Pub. L. 108–271, § 8, July 7, 2004, 118 Stat. 814, provided that:

''(a) IN GENERAL.—The General Accounting Office is hereby redesignated the Government Accountability Office.

''(b) REFERENCES.—Any reference to the General Accounting Office in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act [July 7, 2004] shall be considered to refer and apply to the Government Accountability Office.''

TRANSFERS AND TERMINATIONS OF FUNCTIONS

Pub. L. 104–316, title I, § 101(a)–(d), Oct. 19, 1996, 110 Stat. 3826, 3827, provided that:

''(a) IN GENERAL.—

''(1) FUNCTIONS TRANSFERRED.—In any case in which a provision of law authorizing the performance of a function by the Comptroller General of the United States or the General Accounting Office [now Government Accountability Office] is amended by this title [see Tables for classification] to substitute another Federal officer, employee, or agency in that authorization, the authority under that provision to perform that function is transferred to the other Federal officer, employee, or agency.

''(2) FUNCTIONS TERMINATED.—In any case in which a provision of law authorizing the performance of a function by the Comptroller General of the United States or the General Accounting Office [now Government Accountability Office] is repealed by this Act [see Tables for classification], the authority under that provision to perform that function is terminated.

''(3) DELEGATION OF FUNCTIONS.—The Director of the Office of Management and Budget may delegate, in whole or in part, to any other agency or agencies any function transferred to or vested in the Director under section 103(d), 105(b), 116, or 202(n) of this Act [amending section 3702 of this title, section 5584 of Title 5, Government Organization and Employees, section 2774 of Title 10, Armed Forces, and section 716 of Title 32, National Guard], and may transfer to such agency or agencies any personnel, budget authority, records, and property received by the Director pursuant to subsection (b) of this section that relate to the delegated functions.

''(b) INCIDENTAL TRANSFERS.—

''(1) IN GENERAL.—Incident to any transfer of authority under subsection (a)(1), there shall be transferred to the recipient Federal officer, employee, or agency such personnel, records, budget authority, and property of the General Accounting Office [now Government Accountability Office] as the Comptroller General and the Director of the Office of Management and Budget jointly determine to be necessary to effectuate the transfer.

''(2) EFFECT ON PERSONNEL.—Personnel transferred under this section shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause.

''(c) REFERENCES.—With respect to any function or authority transferred under this Act and exercised on or after the effective date of that transfer, reference in any Federal law to the Comptroller General or to any officer or employee of the General Accounting Office [now Government Accountability Office] is deemed to refer to the Federal officer or agency to which the function or authority is transferred under this Act.

''(d) SAVINGS PROVISIONS.—

''(1) ORDERS AND OTHER OFFICIAL ACTIONS NOT AFFECTED.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

''(A) which have been issued, made, granted, or allowed to become effective by the Comptroller General or any official of the General Accounting Office [now Government Accountability Office], or by

a court of competent jurisdiction, in the performance of any function or authority transferred under this Act, and

''(B) which are in effect at the time of the transfer;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

''(2) PENDING MATTERS AND PROCEEDINGS.—This Act shall not affect any pending matters or proceedings, including notices of proposed rulemaking, relating to a function or authority transferred under this Act. Such matters or proceedings shall continue under the authority of the agency to which the function or authority is transferred until completed or terminated in accordance with law.

''(3) JUDICIAL PROCEEDINGS AND CAUSES OF ACTIONS.—No suit, action, or other proceeding or cause of action relating to a function or authority transferred under this Act shall abate by reason of the enactment of this Act. If, before the date on which a transfer of a function or authority this Act takes effect, the Comptroller General of the United States or any officer or employee of the General Accounting Office [now Government Accountability Office] in their official capacity is party to a suit relating to the function or authority, then such suit shall be continued and the head of the agency to which the function or authority is transferred, or other appropriate official of that agency, shall be substituted or added as a party.''

CONTRACT APPEALS BOARD

Pub. L. 110–161, div. H, title I, § 1501, Dec. 26, 2007, 121 Stat. 2249, provided that:

''(a) DEFINITIONS.—In this section—

''(1) the term 'Board' means the Contract Appeals Board established under subsection (b); and

''(2) the term 'legislative branch agency' means—

''(A) the Architect of the Capitol;

''(B) the United States Botanic Gardens [sic];

''(C) the Government Accountability Office;

''(D) the Government Printing Office;

''(E) the Library of Congress;

''(F) the Congressional Budget Office;

''(G) the United States Capitol Police; and

''(H) any other agency, including any office, board, or commission, established in the legislative branch; and

''(b) ESTABLISHMENT.—There is established a Contract Appeals Board within the Government Accountability Office. The Board shall hear and decide appeals from decisions of a contracting officer with respect to any contract entered into by a legislative branch agency.

''(c) MEMBERS OF THE BOARD.—

''(1) APPOINTMENT.—The Comptroller General shall appoint at least 3 members to the Contract Appeals Board.

''(2) QUALIFICATIONS.—Each member shall have not less than 5 years experience in public contract law.

''(3) PAY.—Subject to any provision of law relating to pay applicable to the Office of General Counsel of the Government Accountability Office, the Comptroller General shall establish and adjust the annual rate of basic pay of members of the Board.

''(d) PROVISIONS APPLICABLE TO APPEALS.—The Contract Disputes Act of 1978 (Public Law 95–563, 41 U.S.C. 601 et seq.), as amended, shall apply to appeals to the Board, except that section 4 [41 U.S.C. 603], subsections 8(a), (b), and (c) [41 U.S.C. 607(a)–(c)], and subsection 10(a) [41 U.S.C. 609(a)] shall not apply to such appeals and the amount of any claim referenced in subsection 6(c) [41 U.S.C. 605(c)] shall be $50,000. The Comptroller General shall prescribe regulations for procedures for appeals to the Board that are consistent with procedures under the Contract Disputes Act of 1978.

''(e) EFFECTIVE DATE.—This section shall apply with respect to fiscal year 2008 and each fiscal year thereafter.''

## § 703. Comptroller General and Deputy Comptroller General

(a)(1) The Comptroller General and Deputy Comptroller General are appointed by the President, by and with the advice and consent of the Senate.

(2) When a vacancy occurs in the office of Comptroller General or Deputy Comptroller General, a commission is established to recommend individuals to the President for appointment to the vacant office. The commission shall be composed of—

(A) the Speaker of the House of Representatives;

(B) the President pro tempore of the Senate;

(C) the majority and minority leaders of the House of Representatives and the Senate;

(D) the chairmen and ranking minority members of the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House; and

(E) when the office of Deputy Comptroller General is vacant, the Comptroller General.

(3) A commission established because of a vacancy in the office of the Comptroller General shall recommend at least 3 individuals. The President may ask the commission to recommend additional individuals.

(b) Except as provided in subsection (e) of this section, the term of the Comptroller General is 15 years. The Comptroller General may not be reappointed. The term of the Deputy Comptroller General expires on the date an individual is appointed Comptroller General. The Deputy Comptroller General may continue to serve until a successor is appointed.

(c) The Deputy Comptroller General—

(1) carries out duties and powers prescribed by the Comptroller General; and

(2) acts for the Comptroller General when the Comptroller General is absent or unable to serve or when the office of Comptroller General is vacant.

(d) The Comptroller General shall designate an officer or employee of the Government Accountability Office to act as Comptroller General when the Comptroller General and Deputy Comptroller General are absent or unable to serve or when the offices of Comptroller General and Deputy Comptroller General are vacant.

(e)(1) A Comptroller General or Deputy Comptroller General may retire after becoming 70 years of age and completing 10 years of service as Comptroller General or Deputy Comptroller General (as the case may be). Either may be removed at any time by—

(A) impeachment; or

(B) joint resolution of Congress, after notice and an opportunity for a hearing, only for—

(i) permanent disability;

(ii) inefficiency;

(iii) neglect of duty;

(iv) malfeasance; or

(v) a felony or conduct involving moral turpitude.

(2) A Comptroller General or Deputy Comptroller General removed from office under paragraph (1) of this subsection may not be reappointed to the office.

(f) The annual rate of basic pay of the—

(1) Comptroller General is equal to the rate for level II of the Executive Schedule; and

(2) Deputy Comptroller General is equal to the rate for level III of the Executive Schedule.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 888; Pub. L. 100–426, title II, § 201, Sept. 9, 1988, 102 Stat. 1599; 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)* |
|---|---|---|
| 703(a)(1) .. | 31:42(a)(1st sentence words after comma). | June 10, 1921, ch. 18, § 302(a)(1st sentence words after 1st comma, last sentence), 42 Stat. 23; Apr. 3, 1980, Pub. L. 96–226, § 104(a), 94 Stat. 314. |
| 703(a)(2), (3). | 31:42(b). | June 10, 1921, ch. 18, 42 Stat. 20, § 302(b); added Apr. 3, 1980, Pub. L. 96–226, § 104(a), 94 Stat. 314. |
| 703(b) ..... | 31:43(1st par. 1st, 2d sentence). | June 10, 1921, ch. 18, § 303(1st par.), 42 Stat. 23; Apr. 3, 1980, Pub. L. 96–226, § 104(b)(1), 94 Stat. 315. |
| 703(c) ..... | 31:42(a)(last sentence). | |
| 703(d) ..... | 31:43a. | June 27, 1944, ch. 286, § 101(last par. on p. 371), 58 Stat. 371. |
| 703(e) ..... | 31:43(1st par. 3d–last sentences). | |
| 703(f) ..... | 31:42a. | Aug. 14, 1964, Pub. L. 88–426, § 203(a), (b), 78 Stat. 415; Dec. 16, 1967, Pub. L. 90–206, § 219(1), 81 Stat. 639; restated Aug. 9, 1975, Pub. L. 94–82, § 204(b), 89 Stat. 421. |

In subsections (a)(1), (b), (d), and (e), the word ''Deputy'' is substituted for ''Assistant'' because of section 101 of the Act of July 9, 1971 (Pub. L. 92–51, 85 Stat. 143).

In subsection (a)(1), the words ''The Comptroller General and Deputy Comptroller General'' are added because of the restatement. The words ''by and'' are added for consistency. The words ''and shall receive salaries of $10,000 and $7,500 a year, respectively'' in section 302(a)(1st sentence words after 2d comma) of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 23), are omitted as superseded by subsection (f) of this section.

In subsection (a)(2), before clause (A), the words ''after April 3, 1980'' are omitted as executed. In clause (E), the words ''of the United States'' are omitted as surplus.

In subsection (a)(3), the words ''because of a vacancy in the office of the Comptroller General'' are substituted for ''under paragraph (1)'' for clarity. The word ''recommend'' is substituted for ''submit'' and ''submitted'' for consistency. The words ''to the President for consideration the names of'', ''for the Office of Comptroller General'', and ''within his discretion'' are omitted as surplus.

In subsection (b), the words ''the term of . . . is 15 years'' are substituted for ''shall hold office for fifteen years'' for consistency. The words ''eligible for'' are omitted as surplus. The words ''the term of . . . expires on'' are substituted for ''shall hold office from the date of his appointment until'' to eliminate unnecessary words and for consistency. The words ''to fill a vacancy in the Office of'' are omitted as surplus.

In subsection (c), the words ''carries out duties and powers prescribed'' are substituted for ''perform such duties as may be assigned'' for consistency. The words ''to him'' are omitted as surplus.

In subsection (d), the words ''officer or'' are added for consistency in the revised title. The text of section 101(last par. on p. 371 words before colon) of the Act of June 27, 1944 (ch. 286, 58 Stat. 371), is omitted as expired.

In subsection (e)(1), before clause (A), the words ''from his office'' are omitted as surplus. In clause (A), the words ''and for no other cause and in no other manner'' are omitted as surplus. In clause (B), before subclause (i), the words ''opportunity for a'' are added for consistency. The words ''guilty of'' are omitted as surplus. In subclause (i), the word ''disability'' is substituted for ''incapacitated'' for consistency in the chapter and with title 5. In subclause (iv), the words ''in office'' are omitted as surplus.

In subsection (e)(2), the words ''from office'' are added for clarity.

In subsection (f), before clause (1), the words ''basic pay'' are substituted for ''compensation'' for consistency with other titles of the United States Code. In clauses (1) and (2), the words ''of the United States'' and ''positions at'' are omitted as surplus. In clause (1), the words ''of subchapter II of chapter 53 of title 5'' are omitted as surplus.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1988—Subsec. (e)(1). Pub. L. 100–426 substituted ''may retire after becoming 70 years of age and completing 10 years of service as Comptroller General or Deputy Comptroller General (as the case may be)'' for ''retires on becoming 70 years of age''.

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.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–426 effective after end of 60-day period beginning Sept. 9, 1988, with certain exceptions, see section 208 of Pub. L. 100–426, set out as a note under section 772 of this title.

SALARY INCREASES

1987—Salaries of Comptroller General and Deputy Comptroller General increased respectively to $89,500 and $82,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1977—Salaries of Comptroller General and Deputy Comptroller General increased respectively to $57,500 and $52,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

1969—Salaries of Comptroller General and Assistant Comptroller General increased respectively to $42,500 and $40,000 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

## § 704. Relationship to other laws

(a) To the extent applicable, all laws generally related to administering an agency apply to the Comptroller General.

(b) A copy of a record and a transcript from a record or proceeding of the Comptroller General,

that the Comptroller General or Deputy Comptroller General certifies under seal, shall be admitted as evidence with the same effect as a copy or transcript referred to in section 1733 of title 28.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 889.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 704(a) ..... | 31:46(1st sentence). | June 10, 1921, ch. 18, § 306, 42 Stat. 24. |
| 704(b) ..... | 31:46(last sentence). | |

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

In subsection (a), the word ''agency'' is substituted for ''departments and establishments'' because of section 701 of the revised title.

In subsection (b), the word ''record'' is substituted for ''books, records, papers, or documents'' for consistency in the revised title and with other titles of the United States Code.

## § 705. Inspector General for the Government Accountability Office

(a) ESTABLISHMENT OF OFFICE.—There is established an Office of the Inspector General in the Government Accountability Office, to—

(1) conduct and supervise audits consistent with generally accepted government auditing standards and investigations relating to the Government Accountability Office;

(2) provide leadership and coordination and recommend policies, to promote economy, efficiency, and effectiveness in the Government Accountability Office; and

(3) keep the Comptroller General and Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations of the Government Accountability Office.

(b) APPOINTMENT, SUPERVISION, AND REMOVAL.—

(1) The Office of the Inspector General shall be headed by an Inspector General, who shall be appointed by the Comptroller General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Comptroller General.

(2) The Inspector General may be removed from office by the Comptroller General. The Comptroller General shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of Congress.

(3) The Inspector General shall be paid at an annual rate of pay equal to $5,000 less than the annual rate of pay of the Comptroller General, and may not receive any cash award or bonus, including any award under chapter 45 of title 5.

(c) AUTHORITY OF INSPECTOR GENERAL.—In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, may—

(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that relate to programs and operations of the Government Accountability Office;

(2) make such investigations and reports relating to the administration of the programs and operations of the Government Accountability Office as are, in the judgment of the Inspector General, necessary or desirable;

(3) request such documents and information as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal agency;

(4) in the performance of the functions assigned by this section, obtain all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence from a person not in the United States Government or from a Federal agency, to the same extent and in the same manner as the Comptroller General under the authority and procedures available to the Comptroller General in section 716 of this title;

(5) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this section, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

(6) have direct and prompt access to the Comptroller General when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(7) report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law; and

(8) provide copies of all reports to the Audit Advisory Committee of the Government Accountability Office and provide such additional information in connection with such reports as is requested by the Committee.

(d) COMPLAINTS BY EMPLOYEES.—

(1) The Inspector General—

(A) subject to subparagraph (B), may receive, review, and investigate, as the Inspector General considers appropriate, complaints or information from an employee of the Government Accountability Office concerning the possible existence of an activity constituting a violation of any law, rule, or regulation, mismanagement, or a gross waste of funds; and

(B) shall refer complaints or information concerning violations of personnel law, rules, or regulations to established investigative and adjudicative entities of the Government Accountability Office.

(2) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(3) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(e) SEMIANNUAL REPORTS.—(1) The Inspector General shall submit semiannual reports summarizing the activities of the Office of the Inspector General to the Comptroller General. Such reports shall include, but need not be limited to—

(A) a summary of each significant report made during the reporting period, including a description of significant problems, abuses, and deficiencies disclosed by such report;

(B) a description of the recommendations for corrective action made with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) a summary of the progress made in implementing such corrective action described pursuant to subparagraph (B); and

(D) information concerning any disagreement the Comptroller General has with a recommendation of the Inspector General.

(2) The Comptroller General shall transmit the semiannual reports of the Inspector General, together with any comments the Comptroller General considers appropriate, to Congress within 30 days after receipt of such reports.

(f) INDEPENDENCE IN CARRYING OUT DUTIES AND RESPONSIBILITIES.—The Comptroller General may not prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities of the Inspector General under this section.

(g) AUTHORITY FOR STAFF.—

(1) IN GENERAL.—The Inspector General shall select, appoint, and employ (including fixing and adjusting the rates of pay of) such personnel as may be necessary to carry out this section consistent with the provisions of this title governing selections, appointments, and employment (including the fixing and adjusting the rates of pay) in the Government Accountability Office. Such personnel shall be appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service, except that no personnel of the Office may be paid at an annual rate greater than $1,000 less than the annual rate of pay of the Inspector General.

(2) EXPERTS AND CONSULTANTS.—The Inspector General may procure temporary and intermittent services under section 3109 of title 5 at rates not to exceed the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title.

(3) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office of the Inspector General unless the individual is appointed by the Inspector General, or provides services obtained by the Inspector General, pursuant to this paragraph.

(4) LIMITATION ON PROGRAM RESPONSIBILITIES.—The Inspector General and any individual carrying out any of the duties or responsibilities of the Office of the Inspector General are prohibited from performing any program responsibilities.

(h) OFFICE SPACE.—The Comptroller General shall provide the Office of the Inspector General—

(1) appropriate and adequate office space;

(2) such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Office of the Inspector General;

(3) necessary maintenance services for such office space, equipment, office supplies, and communications facilities; and

(4) equipment and facilities located in such office space.

(i) DEFINITION.—As used in this section, the term ''Federal agency'' means a department, agency, instrumentality, or unit thereof, of the Federal Government.

(Added Pub. L. 110–323, § 5(a), Sept. 22, 2008, 122 Stat. 3544.)

INCUMBENT

Pub. L. 110–323, § 5(b), Sept. 22, 2008, 122 Stat. 3547, provided that: ''The individual who serves in the position of Inspector General of the Government Accountability Office on the date of the enactment of this Act [Sept. 22, 2008] shall continue to serve in such position subject to removal in accordance with the amendments made by this section [enacting this section].''

## SUBCHAPTER II—GENERAL DUTIES AND POWERS

### § 711. General authority

The Comptroller General may—

(1) prescribe regulations to carry out the duties and powers of the Comptroller General;

(2) delegate the duties and powers of the Comptroller General to officers and employees of the Government Accountability Office as the Comptroller General decides is necessary to carry out those duties and powers;

(3) regulate the practice of representatives of persons before the Office; and

(4) administer oaths to witnesses when auditing and settling accounts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 889; 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)* |
|---|---|---|
| 711 ..... | 31:44(1st sentence). | June 10, 1921, ch. 18, § 304(1st par. 1st sentence), 42 Stat. 24. |
| | 31:52(c), (d). | June 10, 1921, ch. 18, § 311(c), (d), 42 Stat. 25; Feb. 15, 1980, Pub. L. 96–191, § 8(e)(4), 94 Stat. 33. |
| | 31:52–1(related to direct). | Feb. 15, 1980, Pub. L. 96–191, § 2(related to direct), 94 Stat. 27. |
| | 31:117. | R.S. § 297. |

In clause (1), the words ''may . . . prescribe regulations to carry out the duties and powers of the Comp-

troller General'' are substituted for ''shall make such rules and regulations as may be necessary for carrying on the work of the General Accounting Office'' in 31:52(d) for consistency.

In clause (2), the word ''delegate'' is substituted for ''direct'' in 31:52–1, and the words ''officers and employees'' are substituted for ''personnel'', and 31:52(c) is omitted, for consistency in the revised title and with other titles of the United States Code.

In clause (3), the words ''rules and'' in 31:52(d) are omitted as surplus. The words ''representatives of persons'' are substituted for ''attorneys'' for clarity and consistency in the revised title.

In clause (4), the words ''in any case in which they may deem it necessary for the due'' in 31:117 are omitted as surplus. The words ''auditing and settling'' are substituted for ''examination'' for consistency. The words ''with which they shall be charged'' are omitted because of the restatement.

AMENDMENTS

2004—Par. (2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

## § 712. Investigating the use of public money

The Comptroller General shall—

(1) investigate all matters related to the receipt, disbursement, and use of public money;

(2) estimate the cost to the United States Government of complying with each restriction on expenditures of a specific appropriation in a general appropriation law and report each estimate to Congress with recommendations the Comptroller General considers desirable;

(3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;

(4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and

(5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures the help and information the committee requests.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 889.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 712(1) ..... | 31:53(a)(1st sentence words before 5th comma). | June 10, 1921, ch. 18, § 312(a)(1st sentence words before 5th comma), (b), 42 Stat. 25. |
| 712(2) ..... | 31:59. | Aug. 2, 1946, ch. 753, §§ 205, 206(1st sentence), 60 Stat. 837. |
| 712(3) ..... | 31:60(1st sentence). | |
| 712(4) ..... | 31:53(b)(1st sentence). | |
| 712(5) ..... | 31:53(b)(last sentence). | |

In clause (1), the words ''at the seat of government or elsewhere'' are omitted as surplus.

In clause (2), the words ''estimate the cost to the United States Government of complying with each restriction on expenditures'' are substituted for ''make a full and complete study of restrictions . . . limiting the expenditure therein with a view to determining the cost to the Government incident to complying with such restrictions'', and the word ''desirable'' is substituted for ''necessary or desirable'', to eliminate unnecessary words.

In clause (3), the words ''executive agency'' are substituted for ''agency in the executive branch of the Government (including Government corporations)'' because of section 102 of the revised title.

In clause (4), the words ''committee of Congress'' are substituted for ''committee of either House'' for consistency.

In clause (5), the words ''at the request of any such committee, direct assistants from his office'' are omitted as surplus.

REPORT ON TOBACCO SETTLEMENT AGREEMENT

Pub. L. 107–171, title X, § 10908, May 13, 2002, 116 Stat. 538, provided that: ''Not later than December 31, 2002, and annually thereafter through 2006, the Comptroller General shall submit to Congress a report that describes all programs and activities that States have carried out using funds received under all phases of the Master Settlement Agreement of 1997.''

## § 713. Audit of Internal Revenue Service, Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives

(a) Under regulations of the Comptroller General, the Comptroller General shall audit the Internal Revenue Service and the Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice of the Department of the Treasury.[1] An audit under this section does not affect a final decision of the Secretary of the Treasury under section 6406 of the Internal Revenue Code of 1986 (26 U.S.C. 6406).

(b)(1) To carry out this section and to the extent provided by and only subject to section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103)—

(A) returns and return information (as defined in section 6103(b) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(b)) shall be made available to the Comptroller General; and

(B) records and property of, or used by, the Service or either Bureau, shall be made available to the Comptroller General.

(2) At least once every 6 months, the Comptroller General shall designate each officer and employee of the Government Accountability Office by name and title to whom returns, return information, or records or property of the Service or either Bureau that can identify a particular taxpayer may be made available. Each designation or a certified copy of the designation shall be sent to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, the Joint Committee on Taxation, the Commissioner of Internal Revenue, the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

(3) Except as expressly provided by law, an officer or employee of the Office may make known information derived from a record or property of, or in use by, the Service or either Bureau that can identify a particular taxpayer only to another officer or employee of the Office whose duties or powers require that the record or property be made known.

[1] So in original.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 889; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107–296, title XI, § 1112(m), Nov. 25, 2002, 116 Stat. 2277; 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)* |
|---|---|---|
| 713(a) ..... | 31:67(d)(1). | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 117(d)(1)–(3); added Oct. 7, 1977, Pub. L. 95–125, § 1, 91 Stat. 1104. |
| 713(b)(1) .. | 31:67(d)(2)(1st sentence less proviso). | |
| 713(b)(2) .. | 31:67(d)(3). | |
| 713(b)(3) .. | 31:67(d)(2)(1st sentence proviso, last sentence). | |

In subsection (a), the words ''rules and'' and ''findings or'' are omitted as surplus. The words ''or his delegate'' are omitted as unnecessary because of sections 301(b) and 321(a)(2) of the revised title.

In subsection (b)(1), before clause (A), the words ''To carry out'' are substituted for ''For the purposes of, and to the extent necessary in, making the audits required by'', and the word ''only'' is substituted for ''but notwithstanding the provisions of any other law'', to eliminate unnecessary words. The words ''the requirements imposed by'' are omitted as surplus. The words ''Comptroller General'' are substituted for ''representatives of the General Accounting Office'' for consistency. In clause (B), the word ''records'' is substituted for ''books, accounts, financial records, reports, files, papers'' for consistency in the revised title and with other titles of the United States Code. The words ''other'' and ''things'' are omitted as surplus.

In subsection (b)(2), the words ''in writing'' and ''pursuant to the provisions of paragraph (2) of this subsection'' are omitted as surplus. The words ''records or property of the Service or the Bureau'' are substituted for ''any information described in clause (B) of such paragraph (2)'' for clarity. The words ''in a form . . . be associated with or otherwise . . . directly or indirectly'', ''such written'', and ''promptly'' are omitted as surplus.

In subsection (b)(3), the words ''divulge . . . in any manner whatever to any person'' are omitted as surplus. The words ''information derived from a record or property of, or in use by, the Service or the Bureau'' are substituted for ''any information described in clause (B)'' for clarity and consistency. The words ''in a form . . . be associated with or otherwise . . . directly or indirectly'' are omitted as surplus. The word ''powers'' is substituted for ''responsibilities'' for consistency. The words ''that the record or property be made known'' are substituted for ''such disclosure'' for clarity. The text of 31:67(d)(2)(last sentence) is omitted as surplus.

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

2002—Pub. L. 107–296, § 1112(m)(1), substituted '', Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives'' for ''and Bureau of Alcohol, Tobacco, and Firearms'' in section catchline.

Subsec. (a). Pub. L. 107–296, § 1112(m)(2), substituted ''Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice'' for ''Bureau of Alcohol, Tobacco, and Firearms,''.

Subsec. (b)(1)(B). Pub. L. 107–296, § 1112(m)(3)(A), substituted ''or either Bureau'' for ''or the Bureau''.

Subsec. (b)(2). Pub. L. 107–296, § 1112(m)(3)(B), substituted ''or either Bureau'' for ''or the Bureau'' and ''the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice'' for ''and the Director of the Bureau''.

Subsec. (b)(3). Pub. L. 107–296, § 1112(m)(3)(C), substituted ''or either Bureau'' for ''or the Bureau''.

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

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.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

## § 714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency

(a) In this section, ''agency'' means the Financial Institutions Examination Council, the Federal Reserve Board, Federal reserve banks, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate agency has consented in writing. Audits of the Federal Reserve Board and Federal reserve banks may not include—

(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(3) transactions made under the direction of the Federal Open Market Committee; or

(4) a part of a discussion or communication among or between members of the Board of Governors and officers and employees of the Federal Reserve System related to clauses (1)–(3) of this subsection.

(c)(1) Except as provided in this subsection, an officer or employee of the Government Accountability Office may not disclose information identifying an open bank, an open bank holding

company, or a customer of an open or closed bank or bank holding company. The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the Office may discuss a customer, bank, or bank holding company with an official of an agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) This subsection does not authorize an officer or employee of an agency to withhold information from a committee of Congress authorized to have the information.

(d)(1) To carry out this section, all records and property of or used by an agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General. The Comptroller General shall give an agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit.

(2) The Comptroller General shall prevent unauthorized access to records or property of or used by an agency that the Comptroller General obtains during an audit.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 890; Pub. L. 101–73, title III, § 307(c), Aug. 9, 1989, 103 Stat. 353; Pub. L. 104–316, title I, § 115(a), Oct. 19, 1996, 110 Stat. 3834; 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)* |
|---|---|---|
| 714(a) ..... | 31:67(e)(2). | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 117(e)(1)–(5), (7); added July 21, 1978, Pub. L. 95–320, § 2, 92 Stat. 391; Nov. 10, 1978, Pub. L. 95–630, § 1010, 92 Stat. 3696. |
| 714(b) ..... | 31:67(e)(1), (3), (4). | |
| 714(c) ..... | 31:67(e)(5). | |
| 714(d) ..... | 31:67(e)(7). | |

In subsection (a), the words ''Financial Institutions Examination Council, the Federal Reserve Board, Federal reserve banks, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency'' are substituted for ''the agencies, banks, facilities, and corporation, listed in clauses (A), (B), (C), and (D) of paragraph (1)'' for clarity. The words ''and their branches and facilities'' are omitted as unnecessary because of section 4 of the Rules of Organization of the Federal Reserve System set out in 12:222(note).

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

In subsection (b), before clause (1), the words ''rules and'' are omitted as surplus. The word ''agency'' is substituted for 31:67(e)(1)(A)–(D) because of subsection (a). The words ''(hereinafter in this subsection referred to as the Office)'' are omitted because of the restatement. In clause (1), the words ''government of a foreign country'' are substituted for ''foreign governments'' for consistency. In clause (3), the words ''including transactions of the Federal Reserve System Open Market Account'' are omitted as surplus. In clause (4), the words ''oral, written, telegraphic, or telephonic'' are omitted as surplus.

In subsection (c)(1), the words ''otherwise'', ''to any person, nor shall the Office disclose in its report or otherwise outside of the Office'', ''in a form'', and ''specific'' are omitted as surplus.

In subsection (c)(2), the words ''An officer or employee of the Office'' are substituted for ''the Office or its employees'' for consistency in the revised title and with other titles of the United States Code. The word ''specific'' is omitted as surplus.

In subsection (c)(3), the words ''or subcommittee of the'' are omitted as surplus. The words ''authorized to have the information'' are substituted for ''duly authorized'' for clarity.

In subsection (d)(1), the words ''To carry out this section, all records and property of or used by an agency . . . shall be made available to the Comptroller General'' are substituted for 31:67(e)(7)(A)(words before 11th comma) for consistency in the revised title and with other titles of the Code and to eliminate unnecessary words. The words ''without deletions'' are omitted as surplus. The words ''from whatever source'' and ''whether or not a part of the reports'' are omitted as surplus. The words ''shall have the authority to authorize Office personnel to conduct such audits and to have access to agency materials described in subparagraph (A) and'' are omitted because of sections 702(b) and 711 of the revised title. The words ''records and property'' are substituted for ''such agency materials'' for clarity and consistency.

In subsection (d)(2), the words ''records and property of or used by an agency'' are substituted for ''agency materials described in subparagraph (A)'' for consistency. The words ''The Comptroller General shall prevent unauthorized access to records or property'' are substituted for 31:67(e)(7)(D)(last sentence) for clarity.

AMENDMENTS

2004—Subsec. (c)(1). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1996—Subsec. (d). Pub. L. 104–316 struck out at end of par. (1) ''An agency shall give the Comptroller General suitable and lockable offices and furniture, telephones, and access to copying facilities.'' and amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Except for the temporary removal of workpapers of the Comptroller General that do not identify a customer of an open or closed bank or bank holding company, an open bank, or an open bank holding company, all workpapers of the Comptroller General and records and property of or used by an agency that the Comptroller General possesses during an audit, shall remain in the agency. The Comptroller General shall prevent unauthorized access to records or property.''

1989—Subsec. (a). Pub. L. 101–73 inserted reference to Office of Thrift Supervision.

## § 715. Audit of accounts and operations of the District of Columbia government

(a) In addition to the audit carried out under section 455 of the District of Columbia Home Rule Act (Public Law 93–198, 87 Stat. 803; D.C. Code, § 47–117), the Comptroller General each year shall audit the accounts and operations of the District of Columbia government. An audit shall be carried out according to principles, under regulations, and in a way the Comptroller General prescribes. When prescribing the procedures to follow and the extent of the inspection of records, the Comptroller General shall con-

sider generally accepted principles of auditing, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices.

(b) The Comptroller General shall submit each audit report to Congress and (other than the audit reports of the District of Columbia Courts) the Mayor and Council of the District of Columbia. The report shall include the scope of an audit, information the Comptroller General considers necessary to keep Congress, the Mayor, and the Council informed of operations audited, and recommendations the Comptroller General considers advisable.

(c)(1) By the 90th day after receiving an audit report from the Comptroller General, the Mayor shall state in writing to the Council measures the District of Columbia government is taking to comply with the recommendations of the Comptroller General. A copy of the statement shall be sent to Congress.

(2) After the Council receives the statement of the Mayor, the Council may make available for public inspection the report of the Comptroller General and other material the Council considers pertinent.

(d) To carry out this section, records and property of or used by the District of Columbia government necessary to make an audit easier shall be made available to the Comptroller General. The Mayor shall provide facilities to carry out an audit.

(e) Not later than March 1 of each year, the Comptroller General shall submit to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate a review of the report of the breakdown of the independently audited revenues of the District of Columbia for the preceding fiscal year by revenues derived from the Federal Government and revenues derived from sources other than the Federal Government that is included in the independent annual audit of the funds of the District of Columbia conducted for such fiscal year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 891; Pub. L. 102–102, § 2(c)(2), Aug. 17, 1991, 105 Stat. 496; Pub. L. 105–33, title XI, §§ 11244(b), 11717(b), Aug. 5, 1997, 111 Stat. 754, 786.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 715(a) ..... | 31:61(a)(1st, 2d sentences). | Dec. 24, 1973, Pub. L. 93–198, § 736, 87 Stat. 823. |
| 715(b) ..... | 31:61(b)(1). | |
| 715(c)(1) .. | 31:61(b)(3). | |
| 715(c)(2) .. | 31:61(b)(2). | |
| 715(d) ..... | 31:61(a)(last sentence). | |

In subsection (a), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The words ''of Columbia'' are added for clarity. The words ''rules and'' are omitted as surplus. The word ''way'' is substituted for ''procedures'' and ''detail'' to eliminate unnecessary words. The words ''of the United States'' are omitted as surplus. The word ''records'' is substituted for ''vouchers and other documents'' to eliminate unnecessary words.

In subsection (b), the words ''of the District of Columbia'' are added for clarity. The words ''comments and'' are omitted as surplus. The word ''audited'' is substituted for ''to which the reports relate'' for consistency and to eliminate unnecessary words. The words ''with respect thereto'' are omitted as surplus.

In subsection (c)(2), the words ''After the Council receives the statement of the Mayor'' are substituted for ''After the Mayor has had an opportunity to be heard'', and the words ''of the Comptroller General'' are added, for clarity. The word ''thereto'' is omitted as surplus.

In subsection (d), the words ''To carry out this section'' are added for clarity. The words ''records and property of or used by . . . shall be made available to the Comptroller General'' are substituted for 31:61(a)(last sentence 1st–30th words) for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words. The words ''of Columbia government'' are added for consistency. The words ''The Mayor shall provide facilities to carry out an audit'' are substituted for 31:61(a)(last sentence words after last comma) for clarity.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–33, § 11717(b), substituted ''District of Columbia Home Rule Act'' for ''District of Columbia Self-Government and Governmental Reorganization Act''.

Subsec. (b). Pub. L. 105–33, § 11244(b), substituted ''and (other than the audit reports of the District of Columbia Courts) the Mayor'' for ''and the Mayor''.

1991—Subsec. (e). Pub. L. 102–102 added subsec. (e).

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.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 2(e) of Pub. L. 102–102 provided that: ''The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 1991].''

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 annual audit reports to Congress under subsec. (b) of this section is listed on page 4), 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.

ABOLITION OF HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA

Committee on the District of Columbia of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on the District of Columbia treated as referring to Committee on Government Reform and Oversight of House of Representatives, see section 1(b) 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.

### § 716. Availability of information and inspection of records

(a) Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. This subsection does not apply to expenditures made under section 3524 or 3526(e) of this title.

(b)(1) When an agency record is not made available to the Comptroller General within a reasonable time, the Comptroller General may make a written request to the head of the agency. The request shall state the authority for inspecting the records and the reason for the inspection. The head of the agency has 20 days after receiving the request to respond. The response shall describe the record withheld and the reason the record is being withheld. If the Comptroller General is not given an opportunity to inspect the record within the 20-day period, the Comptroller General may file a report with the President, the Director of the Office of Management and Budget, the Attorney General, the head of the agency, and Congress.

(2) Through an attorney the Comptroller General designates in writing, the Comptroller General may bring a civil action in the district court of the United States for the District of Columbia to require the head of the agency to produce a record—

(A) after 20 days after a report is filed under paragraph (1) of this subsection; and

(B) subject to subsection (d) of this section.

(3) The Attorney General may represent the head of the agency. The court may punish a failure to obey an order of the court under this subsection as a contempt of court.

(c)(1) Subject to subsection (d) of this section, the Comptroller General may subpena a record of a person not in the United States Government when the record is not made available to the Comptroller General to which the Comptroller General has access by law or by agreement of that person from whom access is sought. A subpena shall identify the record and the authority for the inspection and may be issued by the Comptroller General. The Comptroller General may have an individual serve a subpena under this subsection by delivering a copy to the person named in the subpena or by mailing a copy of the subpena by certified or registered mail, return receipt requested, to the residence or principal place of business of the person. Proof of service is shown by a verified return by the individual serving the subpena that states how the subpena was served or by the return receipt signed by the person served.

(2) If a person residing, found, or doing business in a judicial district refuses to comply with a subpena issued under paragraph (1) of this subsection, the Comptroller General, through an attorney the Comptroller General designates in writing, may bring a civil action in that district court to require the person to produce the record. The court has jurisdiction of the action and may punish a failure to obey an order of the court under this subsection as a contempt of court.

(d)(1) The Comptroller General may not bring a civil action for a record withheld under subsection (b) of this section or issue a subpena under subsection (c) of this section if—

(A) the record related to activities the President designates as foreign intelligence or counterintelligence activities;

(B) the record is specifically exempted from disclosure to the Comptroller General by a statute that—

(i) without discretion requires that the record be withheld from the Comptroller General;

(ii) establishes particular criteria for withholding the record from the Comptroller General; or

(iii) refers to particular types of records to be withheld from the Comptroller General; or

(C) by the 20th day after a report is filed under subsection (b)(1) of this section, the President or the Director certifies to the Comptroller General and Congress that a record could be withheld under section 552(b)(5) or (7) of title 5 and disclosure reasonably could be expected to impair substantially the operations of the Government.

(2) The President or the Director may not delegate certification under paragraph (1)(C) of this subsection. A certification shall include a complete explanation of the reasons for the certification.

(e)(1) The Comptroller General shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the agency from which it is obtained. Officers and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the agency.

(2) The Comptroller General shall keep information described in section 552(b)(6) of title 5 that the Comptroller General obtains in a way that prevents unwarranted invasions of personal privacy.

(3) This section does not authorize information to be withheld from Congress.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 892; 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)* |
|---|---|---|
| 716(a) ..... | 31:54(a). | June 10, 1921, ch. 18, § 313(a), 42 Stat. 26; Apr. 3, 1980, Pub. L. 96–226, § 102, 94 Stat. 312. |
| 716(b) ..... | 31:54(b). | June 10, 1921, ch. 18, 42 Stat. 20, § 313(b)–(f); added Apr. 3, 1980, Pub. L. 96–226, § 102, 94 Stat. 312. |
| 716(c) ..... | 31:54(c). | |
| 716(d) ..... | 31:54(d). | |
| 716(e) ..... | 31:54(e), (f). | |

In the section, the word ''records'' is substituted for ''books, documents, papers, or records'', ''books, records, correspondence, memoranda, papers, and documents'', and ''written information, books, documents, papers, or records'' for consistency in the revised title

and with other titles of the United States Code. The word ''Congress'' is substituted for ''Speaker of the House of Representatives, and the President of the Senate'' for consistency in the revised title.

In subsections (a) and (b), the word ''agency'' is substituted for ''departments and establishments'' because of section 701 of the revised title.

In subsection (a), the words ''methods of business'' are omitted as surplus. The words ''or any of his assistants or employees, when duly authorized by him'' are omitted because of sections 702(b) and 711 of the revised title. The word ''inspect'' is substituted for ''shall . . . have access to and the right to examine'' for consistency. The cross reference to section 3524 is added for clarity.

In subsection (b)(1), the words ''to the Comptroller General'' are substituted for ''access to'' for clarity and consistency. The words ''in his discretion'', ''in addition to subsection (a)'', ''a period of'', and ''to the written request of the Comptroller General'' are omitted as surplus. The words ''or any of his designated assistants or employees'' are omitted because of sections 702(b) and 711 of the revised title.

In subsection (b)(2), before clause (A), the words ''bring a civil action'' are substituted for ''apply'' to conform to rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). In clause (A), the words ''calendar'' and ''written'' are omitted as surplus.

In subsection (b)(3), the words ''head of the agency'' are substituted for ''defendant official'' for consistency.

In subsection (c)(1), the words ''require by . . . the production of'' are omitted as surplus. The words ''person not in the United States Government'' are substituted for ''contractors, subcontractors, or other non-Federal persons'' for consistency and to eliminate unnecessary words. The words ''from whom access is sought'', ''in the case of service by certified or registered mail'', and ''post office'' are omitted as surplus.

In subsection (c)(2), the words ''judicial district'' are substituted for ''jurisdiction of any district court of the United States'' for consistency and to eliminate unnecessary words. The words ''contumacy or'' are omitted as surplus. The words ''may bring a civil action'' are substituted for ''upon application made by'' to conform to rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (d)(1), before clause (A), the words ''requiring the production of material'' are omitted as surplus. In clause (C), the words ''in writing'', ''consists of matters which . . . from disclosure'', ''United States Code'', ''of such material to the Comptroller General'', and ''Federal'' are omitted as surplus.

In subsection (e)(1), the words ''the head of'' are added for consistency. The words ''from which such material was obtained'' are omitted as surplus.

AMENDMENTS

2004—Subsec. (e)(1). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

## § 717. Evaluating programs and activities of the United States Government

(a) In this section, ''agency'' means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) The Comptroller General shall evaluate the results of a program or activity the Government carries out under existing law—

(1) on the initiative of the Comptroller General;

(2) when either House of Congress orders an evaluation; or

(3) when a committee of Congress with jurisdiction over the program or activity requests the evaluation.

(c) The Comptroller General shall develop and recommend to Congress ways to evaluate a program or activity the Government carries out under existing law.

(d)(1) On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, including recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency.

(2) On request of a member of Congress, the Comptroller General shall give the member a copy of the material the Comptroller General compiles in carrying out this subsection that has been released by the committee for which the material was compiled.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 893.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 717(a) ..... | 31:1157. | Oct. 26, 1970, Pub. L. 91–510, § 207, 84 Stat. 1168. |
| 717(b) ..... | 31:1154(a). | Oct. 26, 1970, Pub. L. 91–510, § 204(a)–(c), 84 Stat. 1168; restated July 12, 1974, Pub. L. 93–344, § 702(a), 88 Stat. 326. |
| 717(c) ..... | 31:1154(c). | |
| 717(d) ..... | 31:1154(b). | |

Subsection (a) restates the source provisions because of section 701 of the revised title and for consistency with section 101 of the revised title.

In subsection (b), before clause (1), the word ''evaluate'' is substituted for ''review and evaluate'' to eliminate unnecessary words. In clause (3), the words ''a committee of Congress'' are substituted for ''any committee of the House of Representatives or the Senate, or any joint committee of the two Houses'' for consistency and to eliminate unnecessary words.

In subsection (c), the word ''evaluate'' is substituted for ''review and evaluation'' to eliminate unnecessary words.

In subsection (d)(1), before clause (A), the words ''committee of Congress'' are substituted for ''committee of either House or any joint committee of the two Houses'' for consistency and to eliminate unnecessary words. In clause (A), the words ''objectives and'', ''actual'', and ''but are not limited to'' are omitted as surplus. In clause (B), the words ''analyzing and'' and ''or evaluation studies'' are omitted as surplus.

In subsection (d)(2), the word ''Congress'' is substituted for ''either House'' for clarity. The words ''statement or other'' are omitted as surplus.

## § 718. Availability of draft reports

(a) A draft report of an audit under section 714 of this title shall be submitted to the Financial Institutions Examination Council, the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency for comment for 30 days.

(b)(1) The Comptroller General may submit a part of a draft report to an agency for comment for more than 30 days only if the Comptroller General decides, after a showing by the agency, that a longer period is necessary and likely to result in a more accurate report. The report may not be delayed because the agency does not comment within the comment period.

(2) When a draft report is submitted to an agency for comment, the Comptroller General shall make the draft report available on request to—

(A) either House of Congress, a committee of Congress, or a member of Congress if the report was begun because of a request of the House, committee, or member; or

(B) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives if the report was not begun because of a request of either House of Congress, a committee of Congress, or a member of Congress.

(3) This subsection is subject to statutory and executive order guidelines for handling and storing classified information and material.

(c) A final report of the Comptroller General shall include—

(1) a statement of significant changes of a finding, conclusion, or recommendation in an earlier draft report because of comments on the draft by an agency;

(2) a statement of the reasons the changes were made; and

(3) for a draft report submitted under subsection (a) of this section, written comments of the agency submitted during the comment period.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 894.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 718(a) ..... | 31:67(e)(6)(B)(1st sentence). | Sept. 12, 1950, ch. 946, 64 Stat. 832, §117(e)(6)(B); added July 21, 1978, Pub. L. 95–320, §2, 92 Stat. 392. |
| 718(b)(1) .. | 31:53(f)(1), (2). | June 10, 1921, ch. 18, 42 Stat. 20, §312(f); added Apr. 3, 1980, Pub. L. 96–226, §103, 94 Stat. 314. |
| 718(b)(2) .. | 31:53(f)(3). | |
| 718(b)(3) .. | 31:53(f)(5). | |
| 718(c)(1) .. | 31:53(f)(4)(A). | |
| 718(c)(2) .. | 31:53(f)(4)(B). | |
| 718(c)(3) .. | 31:67(e)(6)(B)(last sentence). | |

In subsection (a), the words ''audit under section 714 of this title'' are substituted for ''such Office audit report'', and the words ''Financial Institutions Examination Council, the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency'' are substituted for ''agency concerned (other than banks, branches, and facilities)'', because of the restatement.

In subsection (b)(1), the words ''The report may not be delayed because the agency does not comment within the comment period'' are substituted for 31:53(f)(2) to eliminate unnecessary words.

In subsection (b)(2)(A), the words ''pursuant to subsection (b) of this section or otherwise'' are omitted as surplus.

In subsection (b)(2)(B), the words ''if the report was not begun because of a request of either House of Congress, a committee of Congress, or a member of Congress'' are substituted for ''in the case of any other report'' for clarity and consistency.

In subsection (b)(3), the words ''Procedures followed pursuant to'' are omitted as surplus.

In subsection (c), before clause (1), the words ''version of any'' are omitted as surplus. The words ''shall include'' are substituted for ''The Comptroller General shall prepare and issue with'' because of the restatement. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. In clause (3), the words ''when a draft report was submitted under subsection (a) of this section'' are added because of the restatement. The words ''as an addendum'' 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.

## § 719. Comptroller General reports

(a) At the beginning of each regular session of Congress, the Comptroller General shall report to Congress (and to the President when requested by the President) on the work of the Comptroller General. A report shall include recommendations on—

(1) legislation the Comptroller General considers necessary to make easier the prompt and accurate making and settlement of accounts; and

(2) other matters related to the receipt, disbursement, and use of public money the Comptroller General considers advisable.

(b)(1) The Comptroller General shall include in the report to Congress under subsection (a) of this section—

(A) a review of activities under sections 717(b)–(d) and 731(e)(2) of this title, including recommendations under section 717(c) of this title;

(B) information on carrying out duties and powers of the Comptroller General under clauses (A) and (C) of this paragraph, subsections (g) and (h)[1] of this section, and sections 717, 731(e)(2), 734, 1112, and 1113 of this title; and

(C) the name of each officer and employee of the Government Accountability Office assigned or detailed to a committee of Congress, the committee to which the officer or employee is assigned or detailed, the length of the period of assignment or detail, a statement on whether the assignment or detail is finished or continuing, and compensation paid out of appropriations available to the Comptroller General for the period of the assignment or detail that has been completed.

(2) In a report under subsection (a) of this section or in a special report to Congress when Congress is in session, the Comptroller General shall include recommendations on greater economy and efficiency in public expenditures.

(3) The report under subsection (a) shall also include a statement of the staff hours and esti-

[1] See References in Text note below.

mated cost of work performed on audits, evaluations, investigations, and related work during each of the three fiscal years preceding the fiscal year in which the report is submitted, stated separately for each division of the Government Accountability Office by category as follows:

(A) A category for work requested by the chairman of a committee of Congress, the chairman of a subcommittee of such a committee, or any other Member of Congress.

(B) A category for work required by law to be performed by the Comptroller General.

(C) A category for work initiated by the Comptroller General in the performance of the Comptroller General's general responsibilities.

(c) The Comptroller General shall report to Congress—

(1) specially on expenditures and contracts an agency makes in violation of law;

(2) on the adequacy and effectiveness of—

(A) administrative audits of accounts and claims in an agency; and

(B) inspections by an agency of offices and accounts of fiscal officials; and

(3) as frequently as practicable on audits carried out under sections 713 and 714 of this title.

(d) The Comptroller General shall report on analyses carried out under section 712(3) of this title to the Committees on Governmental Affairs and Appropriations of the Senate, the Committees on Government Operations and Appropriations of the House, and the committees with jurisdiction over legislation related to the operation of each executive agency.

(e) The Comptroller General shall give the President information on expenditures and accounting the President requests.

(f) When the Comptroller General submits a report to Congress, the Comptroller General shall deliver copies of the report to—

(1) the Committees on Governmental Affairs and Appropriations of the Senate;

(2) the Committees on Government Operations and Appropriations of the House;

(3) a committee of Congress that requested information on any part of a program or activity of a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government that is the subject of any part of a report; and

(4) any other committee of Congress requesting a copy.

(g)(1) The Comptroller General shall prepare—

(A) each month a list of reports issued during the prior month; and

(B) at least once each year a list of reports issued during the prior 12 months.

(2) A copy of each list shall be sent to each committee of Congress and each member of Congress. On request, the Comptroller General promptly shall provide a copy of a report to a committee or member.

(h) On request of a committee of Congress, the Comptroller General shall explain to and discuss with the committee or committee staff a report the Comptroller General makes that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 894; Pub. L. 104–316, title I, § 115(b), Oct. 19, 1996, 110 Stat. 3834; Pub. L. 105–85, div. A, title X, § 1044, Nov. 18, 1997, 111 Stat. 1887; 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)* |
|---|---|---|
| 719(a) ..... | 31:53(a)(1st sentence words after 5th comma). | June 10, 1921, ch. 18, § 312(a)(1st sentence words after 5th comma, last sentence), (c)–(e), 42 Stat. 25. |
| 719(b)(1)(A). | 31:1154(e). | Oct. 26, 1970, Pub. L. 91–510, § 204(e), 84 Stat. 1168; restated July 12, 1974, Pub. L. 93–344, § 702(a), 88 Stat. 326. |
| 719(b)(1)(B). | 31:1155(b). | Oct. 26, 1970, Pub. L. 91–510, §§ 205(b), 207, 231–234, 235(b), 84 Stat. 1168, 1170, 1171. |
| 719(b)(1)(C). | 31:1175(b). | |
| 719(b)(2) .. | 31:53(a)(last sentence). | |
| 719(c)(1) .. | 31:53(c). | |
| 719(c)(2) .. | 31:53(d). | |
| 719(c)(3) .. | 31:67(d)(4)(1st sentence). | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 117(d)(4); added Oct. 7, 1977, Pub. L. 95–125, 91 Stat. 1105. |
| | 31:67(e)(6)(A). | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 117(e)(6)(A); added July 21, 1978, Pub. L. 95–320, § 2, 92 Stat. 392. |
| 719(d) ..... | 31:67(d)(4)(last sentence). | |
| 719(e) ..... | 31:60(last sentence). | Aug. 2, 1946, ch. 753, § 206(last sentence), 60 Stat. 837. |
| 719(f) ..... | 31:53(e). | |
| 719(g) ..... | 31:1157.<br>31:1172.<br>31:1173. | |
| 719(h) ..... | 31:1174. | |
| 719(i) ..... | 31:1171. | |

In subsection (a), before clause (1), the words ''of Congress'' are added for clarity. The words ''in writing'' are omitted as surplus. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (b)(1), before clause (A), the words ''under subsection (a) of this section'' are substituted for ''annual'' in 31:1154(e), 1155(b), and 1175(b) for clarity. In clause (A), the words ''of methods for review and evaluation of Government programs and activities'' are omitted as unnecessary. In clause (C), the word ''officer'' is added for consistency. The words ''of the General Accounting Office'' are added for clarity. The words ''committee of Congress'' are substituted for ''committee of the Senate or House of Representatives or any joint committee of Congress'' for consistency and to eliminate unnecessary words. The words ''name of each'', ''joint committee'', and ''of such employee'' are omitted as surplus. The word ''compensation'' is substituted for ''pay of such employee, his travel, subsistence, and other expenses, the agency contributions for his retirement and life and health insurance benefits, and other necessary monetary expenses for personnel benefits on account of such employee'' for consistency in the revised title and with other titles of the United States Code. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The words ''of such employee, or, if such assignment or detail is currently in effect, during that part of the period of such assignment or detail'' are omitted as surplus.

In subsection (b)(2), the words ''at any time'' are omitted as surplus.

In subsection (c), the word ''agency'' is substituted for ''department or establishment'' and ''departments and establishments'' because of section 701 of the re-

vised title. In clause (1), the words ''in any year'' are omitted as surplus. In clause (2)(A), the word ''audits'' is substituted for ''examination'' for consistency. In clause (2)(B), the words ''by an agency'' are substituted for ''departmental'' because of the restatement. The word ''officials'' is substituted for ''officers'' for consistency.

In subsection (d), before clause (1), the word ''written'' is omitted as surplus. In clause (1), the words ''Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms'' are substituted for ''General Accounting Office, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco, and Firearms'' for consistency. In clauses (2) and (3), the words ''or other examination or review'' are omitted as surplus.

In subsections (e) and (g), the words ''Governmental Affairs . . . of the Senate'' are substituted for ''Government Operations . . . of the two Houses'' in 31:60(last sentence) and ''Government Operations of the . . . Senate'' in 31:1172 because of Rule 25.1(k) of the Standing Rules of the Senate (S. Doc. 96–1, 96th Cong., 1st Sess.).

In subsection (e), the words ''carried out under section 712(3) of this title'' are added because of the restatement. The words ''legislative'' before ''committees'', and ''respective'', are omitted as surplus. The words ''executive agency'' are substituted for ''agencies'' because of section 102 of the revised title.

In subsection (f), 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 (g), before clause (1), the words ''Comptroller General'' are substituted for ''General Accounting Office'' in 31:1172 for consistency. In clause (3), the words ''committee of Congress'' are substituted for ''other committee of the House or Senate, or any joint committee of the two Houses'' for consistency and to eliminate unnecessary words. The words in the parentheses are included for consistency with section 101 of the revised title. The word ''establishment'' in 31:1157 is omitted as surplus. Clause (4) is substituted for 31:1173 to eliminate unnecessary words.

In subsection (h)(1), the words ''once . . . calendar'', ''of the General Accounting Office'', ''immediately'', and ''cumulative'' are omitted as surplus.

In subsection (h)(2), the words ''committee of Congress'' are substituted for ''committee of the House or Senate, each joint committee of the two Houses'' for consistency and to eliminate unnecessary words. The words ''member of Congress'' are substituted for ''Member of the House or Senate, and the Resident Commissioner from Puerto Rico'' for consistency and to eliminate unnecessary words. The words ''On request, the Comptroller General promptly shall provide a copy of a report to a committee or member'' are substituted for 31:1174(last sentence) to eliminate unnecessary words.

In subsection (i), before clause (1), the words ''committee of Congress'' are substituted for ''committee of the House or Senate, or of any joint committee of the two Houses'' for consistency and to eliminate unnecessary words. The words ''making the request'' are omitted as surplus. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. In clause (1), the word ''evaluate'' is substituted for ''review'' for consistency in the revised title. In clause (2), the words ''including requests for appropriations'' are omitted as surplus.

REFERENCES IN TEXT

Subsections (g) and (h) of this section, referred to in subsec. (b)(1)(B), were redesignated subsecs. (f) and (g), respectively, by Pub. L. 104–316, title I, §115(b)(2), Oct. 19, 1996, 110 Stat. 3834.

AMENDMENTS

2004—Subsec. (b)(1)(C), (3). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1997—Subsec. (b)(3). Pub. L. 105–85 added par. (3).

1996—Subsecs. (d) to (i). Pub. L. 104–316 redesignated subsecs. (e) to (i) as (d) to (h), respectively, and struck out former subsec. (d) which read as follows: ''The Comptroller General shall report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

''(1) procedures and requirements the Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms, prescribe to protect the confidentiality of returns and return information made available to the Comptroller General under section 713(b)(1) of this title;

''(2) the scope and subject matter of audits under section 713 of this title; and

''(3) findings, conclusions, or recommendations the Comptroller General develops as a result of an audit under section 713 of this title, including significant evidence of inefficiency or mismanagement.''

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 certain reporting requirements under subsecs. (a) and (g)(2) (1st sentence) of this section are listed on pages 9 and 7, respectively), 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.

REPORTING REQUIREMENTS

Pub. L. 108–271, §11, July 7, 2004, 118 Stat. 815, provided that:

''(a) ANNUAL REPORTS.—The Comptroller General shall include—

''(1) in each report submitted to Congress under section 719(a) of title 31, United States Code, during the 5-year period beginning on the date of enactment of this Act [July 7, 2004], a summary review of all actions taken under sections 2, 3, 4, 6, 7, 9, and 10 of this Act [amending sections 731, 732, and 733 of this title, enacting provisions set out as notes under section 731 of this title, and amending provisions set out as notes under sections 5597 and 8336 of Title 5, Government Organization and Employees] during the period covered by such report, including—

''(A) the respective numbers of officers and employees—

''(i) separating from the service under section 2 of this Act [amending provisions set out as notes under sections 5597 and 8336 of Title 5];

''(ii) receiving pay retention under section 4 of this Act [amending section 732 of this title];

''(iii) receiving increased annual leave under section 6 of this Act [amending section 731 of this title]; and

''(iv) engaging in the executive exchange program under section 7 of this Act [amending section 731 of this title], as well as the number of private sector employees participating in such program and a review of the general nature of the work performed by the individuals participating in such program;

''(B) a review of all actions taken to formulate the appropriate methodologies to implement the pay adjustments provided for under section 3 of this Act [amending sections 732 and 733 of this title], except that nothing under this subparagraph shall be required if no changes are made in any such methodology during the period covered by such report; and

''(C) an assessment of the role of sections 2, 3, 4, 6, 7, 9, and 10 of this Act in contributing to the General Accounting Office's [now Government Accountability Office] ability to carry out its mission, meet its performance goals, and fulfill its strategic plan; and

''(2) in each report submitted to Congress under such section 719(a) after the effective date of section 3 of this Act [see Effective Date of 2004 Amendment note under section 731 of this title] and before the close of the 5-year period referred to in paragraph (1)—

''(A) a detailed description of the methodologies applied under section 3 of this Act and the manner in which such methodologies were applied to determine the appropriate annual pay adjustments for officers and employees of the Office;

''(B) the amount of the annual pay adjustments afforded to officers and employees of the Office under section 3 of this Act; and

''(C) a description of any extraordinary economic conditions or serious budget constraints which had a significant impact on the determination of the annual pay adjustments for officers and employees of the Office.

''(b) FINAL REPORT.—Not later than 6 years after the date of enactment of this Act [July 7, 2004], the Comptroller General shall submit to Congress a report concerning the implementation of this Act [see Tables for classification]. Such report shall include—

''(1) a summary of the information included in the annual reports required under subsection (a);

''(2) recommendations for any legislative changes to section 2, 3, 4, 6, 7, 9, or 10 of this Act; and

''(3) any assessment furnished by the General Accounting Office [now Government Accountability Office] Personnel Appeals Board or any interested groups or associations representing officers and employees of the Office for inclusion in such report.

''(c) ADDITIONAL REPORTING.—Notwithstanding any other provision of this section, the reporting requirement under subsection (a)(2)(C) shall apply in the case any report submitted under section 719(a) of title 31, United States Code, whether during the 5-year period beginning on the date of enactment of this Act [July 7, 2004] (as required by subsection (a)) or at any time thereafter.''

GAO VOLUNTARY EARLY RETIREMENT AND SEPARATION INCENTIVES: REPORTING REQUIREMENTS

Pub. L. 106–303, § 6, Oct. 13, 2000, 114 Stat. 1069, provided that:

''(a) ANNUAL REPORTS.—The Comptroller General shall include in each report submitted to Congress under section 719(a) of title 31, United States Code, during the 5-year period beginning on the date of the enactment of this Act [Oct. 13, 2000]—

''(1) a review of all actions taken pursuant to sections 1 through 3 of this Act [amending section 732 of this title and enacting provisions set out as notes under section 732 of this title and sections 5597 and 8336 of Title 5, Government Organization and Employees] during the period covered by the report, including—

''(A) the number of officers or employees who separated from service pursuant to section 1 or 2 [enacting provisions set out as notes under sections 5597 and 8336 of Title 5], or who were released pursuant to a reduction in force conducted under the amendment made by section 3 [amending section 732 of this title], during such period;

''(B) an assessment of the effectiveness and usefulness of those sections in contributing to the agency's ability to carry out its mission, meet its performance goals, and fulfill its strategic plan; and

''(C) with respect to the amendment made by section 3, an assessment of the impact such amendment has had with respect to preference eligibles, including—

''(i) whether a disproportionate number or percentage of preference eligibles were included among those who became subject to reduction-in-force actions as a result of such amendment;

''(ii) whether a disproportionate number or percentage of preference eligibles were in fact released pursuant to reductions in force under such amendment; and

''(iii) to the extent that either of the foregoing is answered in the affirmative, the reasons for the disproportionate impact involved (particularly, whether such amendment caused or contributed to the disproportionate impact involved); and

''(2) recommendations for any legislation which the Comptroller General considers appropriate with respect to any of those sections.

''(b) THREE-YEAR ASSESSMENT.—Not later than 3 years after the date of the enactment of this Act [Oct. 13, 2000], the Comptroller General shall submit to the Congress a report concerning the implementation and effectiveness of this Act [enacting section 732a of this title, amending sections 731, 732, and 733 of this title, and enacting provisions set out as notes under section 732 of this title and sections 5597 and 8336 of Title 5]. Such report shall include—

''(1) a summary of the portions of the annual reports required under subsection (a);

''(2) recommendations for continuation of section 1 or 2 or any legislative changes to section 1 or 2 or the amendment made by section 3; and

''(3) any assessment or recommendations of the General Accounting Office [now Government Accountability Office] Personnel Appeals Board or of any interested groups or associations representing officers or employees of the General Accounting Office [now Government Accountability Office].

''(c) PREFERENCE ELIGIBLE DEFINED.—For purposes of this section, the term 'preference eligible' has the meaning given such term under section 2108(3) of title 5, United States Code.''

## § 720. Agency reports

(a) In this section, ''agency'' means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) When the Comptroller General makes a report that includes a recommendation to the head of an agency, the head of the agency shall submit a written statement on action taken on the recommendation by the head of the agency. The statement shall be submitted to—

(1) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives before the 61st day after the date of the report; and

(2) the Committees on Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 896.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 720(a) ..... | 31:1157. | Oct. 26, 1970, Pub. L. 91–510, §§ 207, 236, 84 Stat. 1168, 1171. |
| 720(b) ..... | 31:1176. | |

In subsection (a), the words ''As used . . . the term'', ''Federal'', and ''establishment'' are omitted as surplus. The words in parentheses are included for consistency with section 101 of the revised title.

In subsection (b), before clause (1), the words ''Comptroller General'' are substituted for ''General Accounting Office'', and the words ''head of the'' are added, for consistency. The word ''written'' is omitted as surplus. In clause (1), the words ''Governmental Affairs of the Senate'' are substituted for ''Government Operations of the . . . Senate'' because of Rule 25.1(k) of the Standing Rules of the Senate (S. Doc. 96–1, 96th Cong., 1st Sess.). In clause (2), the words ''both Houses of Congress'' are substituted for ''the House of Representatives and the Senate'' for consistency. The words ''connection with'', ''for that agency'', and ''to the Congress'' 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.

## SUBCHAPTER III—PERSONNEL

### § 731. General

(a) The Comptroller General may appoint, pay, assign, and remove officers (except the Deputy Comptroller General) and employees the Comptroller General decides are necessary to carry out the duties and powers of the Government Accountability Office.

(b) The Comptroller General may establish for appropriate officers and employees a merit pay system consistent with section 5401 of title 5, as in effect on October 31, 1993.

(c) The annual rate of basic pay of the General Counsel of the Government Accountability Office is equal to the rate for level IV of the Executive Schedule.

[(d) Repealed. Pub. L. 110–323, § 9(a)(1), Sept. 22, 2008, 122 Stat. 3548.]

(e) The Comptroller General may procure the services of experts and consultants under section 3109 of title 5 at rates not in excess of the daily rate for level IV of the Executive Schedule, except that the services of not more than 20 experts and consultants may be procured for terms of not more than 3 years, but which shall be renewable.

(f) The Comptroller General shall prescribe regulations under which officers and employees of the Office may, in appropriate circumstances, be reimbursed for any relocation expenses under subchapter II of chapter 57 of title 5 for which they would not otherwise be eligible, but only if the Comptroller General determines that the transfer giving rise to such relocation is of sufficient benefit or value to the Office to justify such reimbursement.

(g) The Comptroller General shall prescribe regulations under which key officers and employees of the Office who have less than 3 years of service may accrue leave in accordance with section 6303(a)(2) of title 5, in those circumstances in which the Comptroller General has determined such increased annual leave is appropriate for the recruitment or retention of such officers and employees. Such regulations shall define key officers and employees and set forth the factors in determining which officers and employees should be allowed to accrue leave in accordance with this subsection.

(h) The Comptroller General may by regulation establish an executive exchange program under which officers and employees of the Office may be assigned to private sector organizations, and employees of private sector organizations may be assigned to the Office, to further the institutional interests of the Office or Congress, including for the purpose of providing training to officers and employees of the Office. Regulations to carry out any such program—

(1) shall include provisions (consistent with sections 3702 through 3704 of title 5) as to matters concerning—

(A) the duration and termination of assignments;

(B) reimbursements; and

(C) status, entitlements, benefits, and obligations of program participants;

(2) shall limit—

(A) the number of officers and employees who are assigned to private sector organizations at any one time to not more than 15; and

(B) the number of employees from private sector organizations who are assigned to the Office at any one time to not more than 30;

(3) shall require that an employee of a private sector organization assigned to the Office may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which such employee is assigned;

(4) shall require that, before approving the assignment of an officer or employee to a private sector organization, the Comptroller General shall determine that the assignment is an effective use of the Office's funds, taking into account the best interests of the Office and the costs and benefits of alternative methods of achieving the same results and objectives; and

(5) shall not allow any assignment under this subsection to commence after the end of the 5-

year period beginning on the date of the enactment of this subsection.

(i) An employee of a private sector organization assigned to the Office under the executive exchange program shall be considered to be an employee of the Office for purposes of—

(1) chapter 73 of title 5;

(2) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

(3) sections 1343, 1344, and 1349(b) of this title;

(4) chapter 171 of title 28 (commonly referred to as the ''Federal Tort Claims Act'') and any other Federal tort liability statute;

(5) the Ethics in Government Act of 1978 (5 U.S.C. App.);

(6) section 1043 of the Internal Revenue Code of 1986; and

(7) section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).

(j) Funds appropriated to the Government Accountability Office for salaries and expenses are available for meals and other related reasonable expenses incurred in connection with recruitment.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 896; Pub. L. 98–326, §1(a), June 22, 1984, 98 Stat. 269; Pub. L. 98–615, title II, §204(b), Nov. 8, 1984, 98 Stat. 3216; Pub. L. 103–89, §3(b)(4), Sept. 30, 1993, 107 Stat. 983; Pub. L. 106–303, §5, Oct. 13, 2000, 114 Stat. 1069; Pub. L. 108–271, §§5–7, 8(b), July 7, 2004, 118 Stat. 813, 814; Pub. L. 110–323, §9(a), Sept. 22, 2008, 122 Stat. 3548.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 731(a) ..... | 31:44(1st sentence). | June 10, 1921, ch. 18, §304(1st par. 1st sentence), 42 Stat. 24. |
| | 31:52(a), (b). | June 10, 1921, ch. 18, §311(a), (b), 42 Stat. 25; restated Feb. 15, 1980, Pub. L. 96–191, §8(e)(3), 94 Stat. 33. |
| | 31:52–1(related to appointment, pay, and assignment). | Feb. 15, 1980, Pub. L. 96–191, §§2(related to appointment, pay, and assignment), 5(b), 94 Stat. 27, 32. |
| | 31:56. | Mar. 4, 1909, ch. 297, §1(proviso on p. 866), 35 Stat 866; May 29, 1920, ch. 214, §1(last par. under heading ''Office of Comptroller of the Treasury''), 41 Stat. 647. |
| 731(b) ..... | 31:52–4(b). | |
| 731(c) ..... | 31:51a. | Aug. 14, 1964, Pub. L. 88–426, §203(c)(5th–14th words), 78 Stat. 415; Dec. 16, 1967, Pub. L. 90–206, §219(2), 81 Stat. 639; restated Aug. 9, 1975, Pub. L. 94–82, §204(b), 89 Stat. 421. |
| 731(d) ..... | 31:52b. | Aug. 14, 1964, Pub. L. 88–426, 78 Stat. 400, §203(i); added Dec. 15, 1971, Pub. L. 92–190, 85 Stat. 646. |
| 731(e) ..... | 31:52c. | Jan. 2, 1975, Pub. L. 93–604, §401, 88 Stat. 1962. |
| | 31:1154(d)(last sentence). | Oct. 26, 1970, Pub. L. 91–510, §204(d)(last sentence), 84 Stat. 1168; restated July 12, 1974, Pub. L. 93–344, §702(a), 88 Stat. 326. |

In subsection (a), the text of 31:52(a) and (b) and 31:56 is omitted as superseded by the other source provisions restated in this subchapter and subchapter IV of this chapter. The word ''remove'' is added for consistency with other provisions of the subchapter. The words ''officers (except the Deputy Comptroller General) and employees'' are substituted for ''personnel'' in 31:52–1, and the word ''powers'' is substituted for ''functions'', for consistency in the revised title and with other titles of the United States Code.

Subsection (b) is substituted for 31:52–4(b) to eliminate unnecessary words. The words ''officers and'' are added for consistency in the revised title and with other titles of the Code.

In subsections (c) and (d), the words ''basic pay'' are substituted for ''compensation'' for consistency in the revised title and with other titles of the Code.

In subsection (c), the words ''United States'' and ''positions at'' are omitted as surplus.

In subsection (d), the words ''in the General Accounting Office'', ''prescribed . . . under section 5315 of title 5'', and ''of the Office'' are omitted as surplus.

In subsection (e), before clause (1), the words ''procure the services of'' are substituted for ''employ'' for consistency with 5:3109. The words ''at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5 for persons in the Government service employed intermittently'' are omitted as unnecessary because of 5:3109. In clause (1), the word ''periods'' is omitted as surplus. Clause (2) is substituted for 31:1154(d)(last sentence) to eliminate unnecessary words. The words ''and consultants'' are added because of 5:3109.

REFERENCES IN TEXT

Section 5401 of title 5, referred to in subsec. (b), was repealed by Pub. L. 103–89, §3(a)(1), Sept. 30, 1993, 107 Stat. 981.

Level IV of the Executive Schedule, referred to in subsecs. (c) and (e), is set out in section 5315 of Title 5, Government Organization and Employees.

The date of the enactment of this subsection, referred to in subsec. (h)(5), is the date of enactment of Pub. L. 108–271, which was approved July 7, 2004.

The Ethics in Government Act of 1978, referred to in subsec. (i)(5), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

Section 1043 of the Internal Revenue Code of 1986, referred to in subsec. (i)(6), is classified to section 1043 of Title 26, Internal Revenue Code.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–323, §9(a)(1), struck out subsec. (d) which read as follows: ''When a change in organization, management responsibility, or workload makes it necessary, the Comptroller General may fix the rate of basic pay of 5 positions at rates not more than the rate for level IV of the Executive Schedule.''

Subsec. (e). Pub. L. 110–323, §9(a)(2), substituted ''daily rate for level IV of the Executive Schedule'' for ''maximum daily rate for GS–18 under section 5332 of such title'' and ''more than 20 experts and consultants may be procured for terms of not more than 3 years, but which shall be renewable.'' for ''more than—

''(1) 15 experts and consultants may be procured for terms of not more than 3 years, but which shall be renewable; and

''(2) 10 experts and consultants may be procured permanently, temporarily, or intermittently to carry out sections 717(b)–(d) and 719(b)(1)(A) of this title at rates that are not more than the rate for level IV of the Executive Schedule.''

Subsec. (j). Pub. L. 110–323, §9(a)(3), added subsec. (j).

2004—Subsecs. (a), (c). Pub. L. 108–271, §8(b), substituted ''Government Accountability Office'' for ''General Accounting Office''.

Subsec. (f). Pub. L. 108–271, §5, added subsec. (f).

Subsec. (g). Pub. L. 108–271, §6, added subsec. (g).

Subsecs. (h), (i). Pub. L. 108–271, §7, added subsecs. (h) and (i).

2000—Subsec. (e)(1). Pub. L. 106–303, §5(1), substituted ''terms of not more than 3 years, but which shall be renewable'' for ''not more than 3 years''.

Subsec. (e)(2). Pub. L. 106–303, §5(2), substituted ''level IV'' for ''level V''.

1993—Subsec. (b). Pub. L. 103–89 inserted before period at end ", as in effect on October 31, 1993".

1984—Subsec. (b). Pub. L. 98–615 substituted "section 5401 of title 5" for "section 5401(a) of title 5".

Subsec. (e). Pub. L. 98–236 substituted "title 5 at rates not in excess of the maximum daily rate for GS–18 under section 5332 of such title" for "title 5" in provisions preceding par. (1) and "15" for "10" in par. (1).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–271, § 13, July 7, 2004, 118 Stat. 816, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), this Act [see Tables for classification] and the amendments made by this Act shall take effect on the date of enactment of this Act [July 7, 2004].

"(b) PAY ADJUSTMENTS.—

"(1) IN GENERAL.—Section 3 of this Act [amending sections 732 and 733 of this title] and the amendments made by that section shall take effect on October 1, 2005, and shall apply in the case of any annual pay adjustment taking effect on or after that date.

"(2) INTERIM AUTHORITIES.—In connection with any pay adjustment taking effect under section 732(c)(3) or 733(a)(3)(B) of title 31, United States Code, before October 1, 2005, the Comptroller General may by regulation—

"(A) provide that such adjustment not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment; and

"(B) provide that such adjustment be reduced if and to the extent necessary because of extraordinary economic conditions or serious budget constraints.

"(3) ADDITIONAL AUTHORITY.—

"(A) IN GENERAL.—The Comptroller General may by regulation delay the effective date of section 3 of this Act and the amendments made by that section for groups of officers and employees that the Comptroller General considers appropriate.

"(B) INTERIM AUTHORITIES.—If the Comptroller General provides for a delayed effective date under subparagraph (A) with respect to any group of officers or employees, paragraph (2) shall, for purposes of such group, be applied by substituting such date for 'October 1, 2005'."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–89 effective Nov. 1, 1993, see section 3(c) of Pub. L. 103–89, set out as a note under section 3372 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1984 AMENDMENTS

Section 205 of Pub. L. 98–615 provided that amendment by Pub. L. 98–615 was effective Oct. 1, 1984, and applicable with respect to pay periods commencing on or after that date, with certain exceptions and qualifications.

Section 2 of Pub. L. 98–326 provided that: "The amendments made by this Act [amending this section and sections 732 and 733 of this title] shall take effect beginning on October 1, 1984."

CONSULTATION

Pub. L. 108–271, § 10, July 7, 2004, 118 Stat. 815, provided that: "Before the implementation of any changes authorized under this Act [see Tables for classification], the Comptroller General shall consult with any interested groups or associations representing officers and employees of the General Accounting Office [now Government Accountability Office]."

## § 732. Personnel management system

(a) The Comptroller General shall maintain a personnel management system. The Comptroller General may prescribe a regulation about the system only after notice and opportunity for public comment. A reprisal or threat of reprisal may not be made against an officer or employee of the Government Accountability Office because of comments on a proposed regulation about the system.

(b) The personnel management system shall—

(1) include the principles of section 2301(b) of title 5;

(2) prohibit personnel practices prohibited under section 2302(b) of title 5;

(3) prohibit political activities prohibited under subchapter III of chapter 73 of title 5;

(4) ensure that officers and employees of the Office are appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service;

(5) give a preference to an individual eligible for a preference in the executive branch of the United States Government in a way and to an extent consistent with a preference given an individual in the executive branch; and

(6) provide that the Comptroller General shall fix the basic pay of officers and employees of the Office not fixed by law, consistent with section 5301 of title 5, except as provided under subsection (c)(3) of this section and section 733(a)(3)(B) of this title.

(c) Under the personnel management system—

(1) the Comptroller General shall publish a schedule of basic pay rates for officers and employees of the Office;

(2) except as provided in clause (4) of this subsection and section 733(a)(3)(A) of this title, the highest basic pay rate under the pay schedule may not be more than the rate for level III of the Executive Level, except that the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5;

(3) except as provided under section 733(a)(3)(B) of this title, basic rates of officers and employees of the Office shall be adjusted annually to such extent as determined by the Comptroller General, and in making that determination the Comptroller General shall consider—

(A) the principle that equal pay should be provided for work of equal value within each local pay area;

(B) the need to protect the purchasing power of officers and employees of the Office, taking into consideration the Consumer Price Index or other appropriate indices;

(C) any existing pay disparities between officers and employees of the Office and non-Federal employees in each local pay area;

(D) the pay rates for the same levels of work for officers and employees of the Office and non-Federal employees in each local pay area;

(E) the appropriate distribution of agency funds between annual adjustments under this section and performance-based compensation; and

(F) such other criteria as the Comptroller General considers appropriate, including, but not limited to, the funding level for the

Office, amounts allocated for performance-based compensation, and the extent to which the Office is succeeding in fulfilling its mission and accomplishing its strategic plan;

notwithstanding any other provision of this paragraph, an adjustment under this paragraph shall not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;

(4) the pay schedule for officers and employees of the Office may provide that the basic pay rates for not more than 129 positions (including senior-level positions under section 732a of this title) may be at rates not more than the rate of basic pay payable for grade GS–18 of the General Schedule, less the number of positions in the General Accounting Office Senior Executive Service[1] under section 733 of this title (except positions included in the Service under section 733(c) of this title and senior-level positions described in section 732a(b) of this title); and

(5) the Comptroller General shall prescribe regulations under which an officer or employee of the Office shall be entitled to pay retention if, as a result of any reduction-in-force or other workforce adjustment procedure, position reclassification, or other appropriate circumstances as determined by the Comptroller General, such officer or employee is placed in or holds a position in a lower grade or band with a maximum rate of basic pay that is less than the rate of basic pay payable to the officer or employee immediately before the reduction in grade or band; such regulations—

(A) shall provide that the officer or employee shall be entitled to continue receiving the rate of basic pay that was payable to the officer or employee immediately before the reduction in grade or band until such time as the retained rate becomes less than the maximum rate for the grade or band of the position held by such officer or employee; and

(B) shall include provisions relating to the minimum period of time for which an officer or employee must have served or for which the position must have been classified at the higher grade or band in order for pay retention to apply, the events that terminate the right to pay retention (apart from the one described in subparagraph (A)), and exclusions based on the nature of an appointment; in prescribing regulations under this subparagraph, the Comptroller General shall be guided by the provisions of sections 5362 and 5363 of title 5.

(d) The personnel management system shall provide—

(1) for a system to appraise the performance of officers and employees of the General Accounting Office[2] that meets the requirements of section 4302 of title 5 and in addition includes—

(A) a link between the performance management system and the agency's strategic plan;

(B) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system;

(C) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period and setting timetables for review;

(D) effective transparency and accountability measures to ensure that the management of the system is fair, credible, and equitable, including appropriate independent reasonableness, reviews, internal assessments, and employee surveys; and

(E) a means to ensure that adequate agency resources are allocated for the design, implementation, and administration of the performance management system;

(2) that the Comptroller General has the same responsibility for performance appraisals under this subsection as the Director of the Office of Personnel Management has under section 4302 of title 5;

(3) for a reduction in grade or removal of an officer or employee because of unacceptable performance consistent with section 4303 of title 5;

(4) for other personnel actions consistent with chapter 75 of title 5; and

(5) a procedure for processing complaints and grievances not otherwise provided for under clauses (3) and (4) of this subsection or subsection (e) or (f)(1) of this section.

(e) The personnel management system shall provide—

(1) a procedure that ensures that each officer and employee of the Government Accountability Office may form, join, or assist, or not form, join, or assist, an employee organization freely and without fear of penalty or reprisal; and

(2) for a labor-management relations program consistent with chapter 71 of title 5.

(f)(1) The personnel management system shall—

(A) provide that all personnel actions affecting an officer, employee, or applicant for employment be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

(B) include a minority recruitment program consistent with section 7201 of title 5.

(2) This subchapter and subchapter IV of this chapter do not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition. However, for officers, employees, or applicants in the Government Accountability Office—

[1] See Change of Name note below.

[2] So in original. Probably should be ''Government Accountability Office''.

(A) the General Accounting Office Personnel Appeals Board[1] has the same authority over oversight and appeals matters as an executive agency has over oversight and appeals matters; and

(B) the Comptroller General has the same authority over matters (except oversight and appeals) as an executive agency has over matters (except oversight and appeals).

(3) This section does not affect a lawful effort to achieve equal employment opportunity through affirmative action.

(g) An officer or employee of the Government Accountability Office completing at least one year of continuous service under a nontemporary appointment under the personnel management system acquires a competitive status for appointment to a position in the competitive service for which the officer or employee is qualified.

(h)(1)(A) Notwithstanding any other provision of law, the Comptroller General shall prescribe regulations, consistent with regulations issued by the Office of Personnel Management under authority of section 3502(a) of title 5 for the separation of employees of the Government Accountability Office during a reduction in force or other adjustment in force.

(B) The regulations must give effect to the following factors in descending order of priority—

(i) tenure of employment;

(ii) military preference subject to section 3501(a)(3) of title 5;

(iii) veterans' preference under sections 3502(b) and 3502(c) of title 5;

(iv) performance ratings;

(v) length of service computed in accordance with the second sentence of section 3502(a) of title 5; and

(vi) other objective factors such as skills and knowledge that the Comptroller General considers necessary and appropriate to realign the agency's workforce in order to meet current and future mission needs, to correct skill imbalances, or to reduce high-grade, managerial, or supervisory positions.

(C) Notwithstanding subparagraph (B), the regulations relating to removal from the General Accounting Office Senior Executive Service[1] in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

(2)(A) The regulations shall provide a right of appeal to the General Accounting Office Personnel Appeals Board[1] regarding a personnel action under the regulations, consistent with section 753 of this title.

(B) The regulations shall provide that final decision by the General Accounting Office Personnel Appeals Board[1] may be reviewed by the United States Court of Appeals for the Federal Circuit consistent with section 755 of this title.

(3)(A) Except as provided in subparagraph (B), an employee may not be released, due to a reduction in force, unless such employee is given written notice at least 60 days before such employee is so released. Such notice shall include—

(i) the personnel action to be taken with respect to the employee involved;

(ii) the effective date of the action;

(iii) a description of the procedures applicable in identifying employees for release;

(iv) the employee's ranking relative to other competing employees, and how that ranking was determined; and

(v) a description of any appeal or other rights which may be available.

(B) The Comptroller General may, in writing, shorten the period of advance notice required under subparagraph (A) with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable, except that such period may not be less than 30 days.

(i) The regulations under subsection (h) shall include provisions under which, at the discretion of the Comptroller General, the opportunity to separate voluntarily (in order to permit the retention of an individual occupying a similar position) shall, with respect to the Government Accountability Office, be available to the same extent and in the same manner as described in subsection (f)(1)–(4) of section 3502 of title 5 (with respect to the Department of Defense or a military department).

(j)(1) For purposes of this subsection—

(A) the term ''pay increase'', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under section 731(b) and subsection (c)(3) in such year;

(B) the term ''required minimum percentage'', as used with respect to an officer or employee in connection with a year, means the percentage equal to the total increase in rates of basic pay (expressed as a percentage) taking effect under sections 5303 and 5304–5304a of title 5 in such year with respect to General Schedule positions within the pay locality (as defined by section 5302(5) of title 5) in which the position of such officer or employee is located;

(C) the term ''covered officer or employee'', as used with respect to a pay increase, means any individual—

(i) who is an officer or employee of the Government Accountability Office, other than an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) of the Government Accountability Office Act of 2008, determined as of the effective date of such pay increase; and

(ii) whose performance is at least at a satisfactory level, as determined by the Comptroller General under the provisions of subsection (c)(3) for purposes of the adjustment taking effect under such provisions in such year; and

(D) the term ''nonpermanent merit pay'' means any amount payable under section 731(b) which does not constitute basic pay.

(2)(A) Notwithstanding any other provision of this chapter, if (disregarding this subsection) the pay increase that would otherwise take effect with respect to a covered officer or employee in a year would be less than the required minimum percentage for such officer or employee in such year, the Comptroller General

shall provide for a further increase in the rate of basic pay of such officer or employee.

(B) The further increase under this subsection—

(i) shall be equal to the amount necessary to make up for the shortfall described in subparagraph (A); and

(ii) shall take effect as of the same date as the pay increase otherwise taking effect in such year.

(C) Nothing in this paragraph shall be considered to permit or require that a rate of basic pay be increased to an amount inconsistent with the limitation set forth in subsection (c)(2).

(D) If (disregarding this subsection) the covered officer or employee would also have received any nonpermanent merit pay in such year, such nonpermanent merit pay shall be decreased by an amount equal to the portion of such officer's or employee's basic pay for such year which is attributable to the further increase described in subparagraph (A) (as determined by the Comptroller General), but to not less than zero.

(3) Notwithstanding any other provision of this chapter, the effective date of any pay increase (within the meaning of paragraph (1)(A)) taking effect with respect to a covered officer or employee in any year shall be the same as the effective date of any adjustment taking effect under section 5303 of title 5 with respect to statutory pay systems (as defined by section 5302(1) of title 5) in such year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 897; Pub. L. 98–326, § 1(b), June 22, 1984, 98 Stat. 269; Pub. L. 100–426, title III, §§ 302, 303, Sept. 9, 1988, 102 Stat. 1602; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(2)(B)], Nov. 5, 1990, 104 Stat. 1427, 1439; Pub. L. 104–53, title II, § 212(a), Nov. 19, 1995, 109 Stat. 535; Pub. L. 106–303, §§ 3(a)(1), (b)(1), 4(a)(2), Oct. 13, 2000, 114 Stat. 1066, 1068, 1069; Pub. L. 108–271, §§ 3(a), (c), 4, 8(b), 9, 12, July 7, 2004, 118 Stat. 812, 814, 816; Pub. L. 110–323, §§ 2(a), 8, Sept. 22, 2008, 122 Stat. 3539, 3548.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 732(a) ..... | 31:52–2(a). | Feb. 15, 1980, Pub. L. 96–191, §§ 3, 6, 94 Stat. 27, 32. |
| | 31:52–5(b). | |
| 732(b) ..... | 31:52–2(b)(1), (c)(1st sentence). | |
| 732(c) ..... | 31:52–2(c)(last sentence). | |
| 732(d) ..... | 31:52–2(d), (f), (h). | |
| 732(e) ..... | 31:52–2(e). | |
| 732(f)(1), (2). | 31:52–2(g). | |
| 732(f)(3) ... | 31:52–2(b)(2). | |
| 732(g) ..... | 31:52–5(a). | |

In the section, the words ''officers and'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''not later than October 1, 1980'' and 31:52–5(b) are omitted as executed. The word ''maintain'' is substituted for ''establish by regulation'' to omit executed words. The words ''for the General Accounting Office (hereinafter referred to as the 'personnel system') which shall meet the requirements of subsections (b) through (h)'', and ''or any amendment'' are omitted as surplus. The words ''about the system'' are substituted for ''thereto'' for clarity.

In subsection (b)(1), the words ''merit system'' are omitted as surplus. In clause (5), the words ''of the United States Government'' are added for consistency. In clause (6), the words ''the principles of'' are omitted as surplus.

In subsection (c)(2), the words ''payable . . . under the General Schedule'' are omitted as surplus. In clause (4), the words ''not more than 100 positions'' are substituted for ''up to one hundred employees'' for consistency. The words ''payable . . . grade . . . of the General Schedule'' are omitted as surplus. In clause (5), the words ''the principles of'' are omitted as surplus.

In subsection (d)(2), the words ''Director of'' are added for consistency. The text of 31:52–2(d)(last sentence) is omitted as executed. In clause (4), the words ''the taking of'' are omitted as surplus.

In subsections (e)–(g), the word ''management'' is added for consistency.

In subsection (f)(1), the words ''in the General Accounting Office'' are omitted as surplus.

In subsection (f)(2), before clause (A), the word ''affect'' is substituted for ''abolish or diminish'' to eliminate unnecessary words. The words ''in the General Accounting Office by section 717 of the Civil Rights Act of 1964, by sections 12 and 15 of the Age Discrimination in Employment Act of 1967, by section 6(d) of the Fair Labor Standards Act of 1938, by sections 501 and 505 of the Rehabilitation Act of 1973, or . . . other'' are omitted as surplus. In clauses (A) and (B), the words ''has the same authority . . . as . . . has'' are substituted for ''authorities granted thereunder to . . . shall be exercised by'' for clarity. The words ''the Equal Employment Opportunity Commission, Office of Personnel Management, the Merit Systems Protection Board, or . . . other'' are omitted as surplus. In clause (A), the words ''established by section 52–3'' are omitted as surplus.

In subsection (f)(3), the word ''affect'' is substituted for ''prohibits or restricts'' for consistency.

In subsection (g), the words ''Notwithstanding any other provision of law'' are omitted as surplus.

REFERENCES IN TEXT

Level III of the Executive Level, referred to in subsec. (c)(2), probably means Level III of the Executive Schedule, which is set out in section 5314 of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsecs. (c)(4) and (j)(1)(B), is set out under section 5332 of Title 5, Government Organization and Employees.

Section 4(c)(1) of the Government Accountability Office Act of 2008, referred to in subsec. (j)(1)(C)(i), is section 4(c)(1) of Pub. L. 110–323, which is set out as a note below.

AMENDMENTS

2008—Subsec. (c)(2). Pub. L. 110–323, § 8, substituted ''rate for level III of the Executive Level, except that the total amount of cash compensation in any year shall be subject to the limitations provided under section 5307(a)(1) of title 5'' for ''highest basic rate for GS–15''.

Subsec. (j). Pub. L. 110–323, § 2(a), added subsec. (j).

2004—Subsec. (a). Pub. L. 108–271, § 8(b), substituted ''Government Accountability Office'' for ''General Accounting Office''.

Subsec. (b)(6). Pub. L. 108–271, § 3(c), substituted ''title 5, except as provided under subsection (c)(3) of this section and section 733(a)(3)(B) of this title'' for ''title 5''.

Subsec. (c)(3). Pub. L. 108–271, § 3(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''except as provided under section 733(a)(3)(B) of this title or section 5349(a) of title 5, basic pay rates of officers and employees of the Office shall be adjusted at the same time and to the same extent as basic pay rates of the General Schedule are adjusted;''.

Subsec. (c)(5). Pub. L. 108–271, § 4, amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''officers and employees of the Office are entitled to grade and basic pay retention consistent with subchapter VI of chapter 53 of title 5.''

Subsec. (d)(1). Pub. L. 108–271, § 4, amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''for a system to appraise the performance of officers and employees of the General Accounting Office that meets the requirements of section 4302 of title 5;''.

Subsecs. (e)(1), (f)(2) (introductory provisions), (g), (h)(1)(A). Pub. L. 108–271, § 8(b), substituted ''Government Accountability Office'' for ''General Accounting Office''.

Subsec. (h)(3)(A). Pub. L. 108–271, § 12, substituted ''reduction in force'' for ''reduction force''.

Subsec. (i). Pub. L. 108–271, § 8(b), substituted ''Government Accountability Office'' for ''General Accounting Office''.

2000—Subsec. (c)(4). Pub. L. 106–303, § 4(a)(2), inserted ''(including senior-level positions under section 732a of this title)'' after ''129 positions'' and substituted ''733(c) of this title and senior-level positions described in section 732a(b) of this title);'' for ''733(c) of this title);''.

Subsec. (h). Pub. L. 106–303, § 3(a)(1), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''Notwithstanding the provisions of subchapter I of chapter 35 of title 5, United States Code, the Comptroller General shall prescribe regulations for the release of officers and employees of the General Accounting Office in a reduction in force which give due effect to tenure of employment, military preference, performance and/or contributions to the agency's goals and objectives, and length of service. The regulations shall, to the extent deemed feasible by the Comptroller General, be designed to minimize disruption to the Office and to assist in promoting the efficiency of the Office.''

Subsec. (i). Pub. L. 106–303, § 3(b)(1), added subsec. (i).

1995—Subsec. (h). Pub. L. 104–53 added subsec. (h).

1990—Subsec. (b)(6). Pub. L. 101–509 substituted ''5301'' for ''5301(a)''.

1988—Subsec. (c)(3). Pub. L. 100–426, § 303, substituted ''under section 733(a)(3)(B) of this title or section 5349(a) of title 5'' for ''in section 733(a)(3)(B) of this title''.

Subsec. (c)(4). Pub. L. 100–426, § 302, substituted ''129'' for ''119'' and ''the rate of basic pay payable for grade GS–18 of the General Schedule'' for ''the highest rate for GS–18''.

1984—Subsec. (c)(4). Pub. L. 98–326 substituted ''119'' for ''100''.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–323, § 2(b), Sept. 22, 2008, 122 Stat. 3540, provided that: ''The amendment made by this section [amending this section] shall apply with respect to any pay increase (as defined by such amendment) taking effect on or after the date of the enactment of this Act [Sept. 22, 2008].''

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 3 of Pub. L. 108–271 effective Oct. 1, 2005, and applicable in the case of any annual pay adjustment taking effect on or after Oct. 1, 2005, subject to authority of Comptroller General to change pay adjustments or delay the effective date for certain groups of officers and employees, see section 13 of Pub. L. 108–271, set out as a note under section 731 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT; SAVINGS PROVISION

Pub. L. 106–303, § 3(a)(2), (3), Oct. 13, 2000, 114 Stat. 1067, 1068, provided that:

''(2) EFFECTIVE DATE.—Subject to paragraph (3), the amendment made by paragraph (1) [amending this section] shall apply with respect to all reduction-in-force actions taking effect on or after—

''(A) the 180th day following the date of the enactment of this Act [Oct. 13, 2000]; or

''(B) if earlier, the date the Comptroller General issues the regulations required under such amendment.

''(3) SAVINGS PROVISIONS.—If, before the effective date determined under paragraph (2), specific notice of a reduction-in-force action is given to an individual in accordance with section 1 of chapter 5 of GAO Order 2351.1 (dated February 28, 1996), then, for purposes of determining such individual's rights in connection with such action, the amendment made by paragraph (1) shall be treated as if it had never been enacted.''

Pub. L. 106–303, § 3(b)(2), Oct. 13, 2000, 114 Stat. 1068, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 13, 2000].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101–509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–326 effective Oct. 1, 1984, see section 2 of Pub. L. 98–326, set out as a note under section 731 of this title.

PAY ADJUSTMENT RELATING TO CERTAIN PREVIOUS YEARS

Pub. L. 110–323, § 3, Sept. 22, 2008, 122 Stat. 3540, provided that:

''(a) APPLICABILITY.—This section applies in the case of any individual who, as of the date of the enactment of this Act [Sept. 22, 2008], is an officer or employee of the Government Accountability Office, excluding—

''(1) an officer or employee described in subparagraph (A), (B), or (C) of section 4(c)(1) [set out as a note below]; and

''(2) an officer or employee who received both a 2.6 percent pay increase in January 2006 and a 2.4 percent pay increase in February 2007.

''(b) PAY INCREASE DEFINED.—For purposes of this section, the term 'pay increase', as used with respect to an officer or employee in connection with a year, means the total increase in the rate of basic pay (expressed as a percentage) of such officer or employee, taking effect under sections 731(b) and 732(c)(3) of title 31, United States Code, in such year.

''(c) PROSPECTIVE EFFECT.—Effective with respect to pay for service performed in any pay period beginning after the end of the 6-month period beginning on the date of the enactment of this Act (or such earlier date as the Comptroller General may specify), the rate of basic pay for each individual to whom this section applies shall be determined as if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, subject to subsection (e).

''(d) LUMP-SUM PAYMENT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall, subject to the availability of appropriations, pay to each individual to whom this section applies a lump-sum payment. Subject to subsection (e), such lump-sum payment shall be equal to—

''(1)(A) the total amount of basic pay that would have been paid to the individual, for service performed during the period beginning on the effective date of the pay increase for 2006 and ending on the day before the effective date of the pay adjustment under subsection (c) (or, if earlier, the date on which the individual retires or otherwise ceases to be employed by the Government Accountability Office), if such individual had received both a 2.6 percent pay increase for 2006 and a 2.4 percent pay increase for 2007, minus

''(B) the total amount of basic pay that was in fact paid to the individual for service performed during the period described in subparagraph (A); and

''(2) increased by 4 percent of the amount calculated under paragraph (1).

Eligibility for a lump-sum payment under this subsection shall be determined solely on the basis of whether an individual satisfies the requirements of subsection (a) (to be considered an individual to whom this section applies), and without regard to such individual's employment status as of any date following the date of the enactment of this Act or any other factor.

''(e) CONDITIONS.—Nothing in subsection (c) or (d) shall be considered to permit or require—

''(1) the payment of any rate (or portion of the lump-sum amount as calculated under subsection (d)(1) based on a rate) for any pay period, to the extent that such rate would be (or would have been) inconsistent with the limitation that applies (or that applied) with respect to such pay period under section 732(c)(2) of title 31, United States Code; or

''(2) the payment of any rate or amount based on the pay increase for 2006 or 2007 (as the case may be), if—

''(A) the performance of the officer or employee involved was not at a satisfactory level, as determined by the Comptroller General under paragraph (3) of section 732(c) of such title 31 for purposes of the adjustment under such paragraph for that year; or

''(B) the individual involved was not an officer or employee of the Government Accountability Office on the date as of which that increase took effect.

As used in paragraph (2)(A), the term 'satisfactory' includes a rating of 'meets expectations' (within the meaning of the performance appraisal system used for purposes of the adjustment under section 732(c)(3) of such title 31 for the year involved).

''(f) RETIREMENT.—

''(1) IN GENERAL.—The portion of the lump-sum payment paid under subsection (d) to an officer or employee as calculated under subsection (d)(1) shall, for purposes of any determination of the average pay (as defined by section 8331 or 8401 of title 5, United States Code) which is used to compute an annuity under subchapter III of chapter 83 or chapter 84 of such title—

''(A) be treated as basic pay (as defined by section 8331 or 8401 of such title); and

''(B) be allocated to the biweekly pay periods covered by subsection (d).

''(2) CONTRIBUTIONS TO CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

''(A) EMPLOYEE CONTRIBUTIONS.—The Government Accountability Office shall deduct and withhold from the lump-sum payment paid to each employee under subsection (d) an amount equal to the difference between—

''(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, if the portion of the lump-sum payment as calculated under subsection (d)(1) had been additionally paid as basic pay during the period described under subsection (d)(1) of this section; and

''(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period.

''(B) AGENCY CONTRIBUTIONS AND PAYMENT TO THE FUND.—Not later than 9 months after the Government Accountability Office makes the lump-sum payments under subsection (d), the Government Accountability Office shall pay into the Civil Service Retirement and Disability Fund—

''(i) the amount of each deduction and withholding under subparagraph (A); and

''(ii) an amount for applicable agency contributions under section 8334 or 8423 of title 5, United states Code, based on payments made under clause (i).

''(g) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any individuals to whom this section applies (as described in subsection (a)) have for any claim that they are owed any monies denied to them in the form of a pay increase for 2006 or 2007 under section 732(c)(3) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such individuals that they were due money in the form of a pay increase for 2006 or 2007 pursuant to such section 732(c)(3) or any other law.''

LUMP-SUM PAYMENT FOR CERTAIN PERFORMANCE-BASED COMPENSATION

Pub. L. 110–323, § 4, Sept. 22, 2008, 122 Stat. 3543, provided that:

''(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act [Sept. 22, 2008], the Comptroller General shall, subject to the availability of appropriations, pay to each qualified individual a lump-sum payment equal to the amount of performance-based compensation such individual was denied for 2006, as determined under subsection (b).

''(b) AMOUNT.—The amount payable to a qualified individual under this section shall be equal to—

''(1) the total amount of performance-based compensation such individual would have earned for 2006 (determined by applying the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006) if such individual had not had a salary equal to or greater than the maximum for such individual's band (as further described in subsection (c)(2)), less

''(2) the total amount of performance-based compensation such individual was in fact granted, in January 2006, for that year.

''(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term 'qualified individual' means an individual who—

''(1) as of the date of the enactment of this Act, is an officer or employee of the Government Accountability Office, excluding—

''(A) an individual holding a position subject to section 732a or 733 of title 31, United States Code (disregarding section 732a(b) and 733(c) of such title);

''(B) a Federal Wage System employee; and

''(C) an individual participating in a development program under which such individual receives performance appraisals, and is eligible to receive permanent merit pay increases, more than once a year; and

''(2) as of January 22, 2006, was a Band I staff member with a salary above the Band I cap, a Band IIA staff member with a salary above the Band IIA cap, or an administrative professional or support staff member with a salary above the cap for that individual's pay band (determined in accordance with the orders cited in subsection (b)(1)).

''(d) EXCLUSIVE REMEDY.—This section constitutes the exclusive remedy that any officers and employees (as described in subsection (c)) have for any claim that they are owed any monies denied to them in the form of merit pay for 2006 under section 731(b) of title 31, United States Code, or any other law. Notwithstanding any other provision of law, no court or administrative body in the United States, including the Government Accountability Office Personnel Appeals Board, shall have jurisdiction to entertain any civil action or other civil proceeding based on the claim of such officers or employees that they were due money in the form of merit pay for 2006 pursuant to such section 731(b) or any other law.

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

''(1) the term 'performance-based compensation' has the meaning given such term under the Government Accountability Office's performance-based compensation system under GAO Orders 2540.3 and 2540.4, as in effect in 2006; and

''(2) the term 'permanent merit pay increase' means an increase under section 731(b) of title 31, United States Code, in a rate of basic pay.''

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.

### § 732a. Critical positions

(a) The Comptroller General may establish senior-level positions to meet critical scientific, technical or professional needs of the Government Accountability Office. An individual serving in such a position shall—

(1) be subject to the laws and regulations applicable to the General Accounting Office Senior Executive Service[1] under section 733 of this title, with respect to rates of basic pay, performance awards, ranks, carry over of annual leave, benefits, performance appraisals, removal or suspension, and reductions in force;

(2) have the same rights of appeal to the General Accounting Office Personnel Appeals Board[1] as are provided to the Office Senior Executive Service;

(3) be exempt from the same provisions of law as are made inapplicable to the Office Senior Executive Service under section 733(d) of this title, except for section 732(e) of this title;

(4) be entitled to discontinued service retirement under chapter 83 or 84 of title 5 as if a member of the Office Senior Executive Service; and

(5) be subject to reassignment by the Comptroller General to any position in the Office Senior Executive Service under section 733 of this title, as the Comptroller General determines necessary and appropriate.

(b) Senior-level positions under this section may include positions referred to in paragraph (1) or (2) of section 731(e) of this title.

(Added Pub. L. 106–303, § 4(a)(1), Oct. 13, 2000, 114 Stat. 1068; amended Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–323, § 9(b)(1), Sept. 22, 2008, 122 Stat. 3548.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–323 substituted ''paragraph (1) or (2) of section 731(e)'' for ''section 731(d), (e)(1), or (e)(2)''.

2004—Subsec. (a). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in introductory provisions.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

### § 733. Senior Executive Service

(a) The Comptroller General may establish a General Accounting Office Senior Executive Service[1]—

(1) meeting the requirements of section 3131 of title 5;

(2) providing requirements for positions consistent with section 3132(a)(2) of title 5;

(3) providing rates of basic pay—

(A) not more than the maximum rate or less than the minimum rate for the Senior Executive Service under section 5382 of title 5; and

(B) adjusted annually by the Comptroller General after taking into consideration the factors listed under section 732(c)(3) of this title, except that an adjustment under this subparagraph shall not be applied in the case of any officer or employee whose performance is not at a satisfactory level, as determined by the Comptroller General for purposes of such adjustment;

(4) providing a performance appraisal system consistent with subchapter II of chapter 43 of title 5;

(5) allowing the Comptroller General to award ranks to officers and employees in the Office Senior Executive Service consistent with section 4507 of title 5;

(6) providing for removal consistent with section 3592 of title 5, and for removal or suspension consistent with section 7543 of title 5;

(7) allowing the Comptroller General to reassign an officer or employee in the Office Senior Executive Service to any senior-level position established under section 732a of this title, as the Comptroller General determines necessary and appropriate; and

(8) allowing the Comptroller General to pay performance awards to officers and employees of the Office Senior Executive Service consistent with section 5384 of title 5.

(b) Except as provided in subsection (a), the Comptroller General may apply any part of title 5 that applies to an applicant for or officer or employee in the Senior Executive Service under title 5 to the Office Senior Executive Service.

(c) The Office Senior Executive Service may include positions referred to in section 731(c), (e)(1), or (e)(2) of this title.

(d) Section 732(b)(6), (c), (d)(1)–(4), and (e) of this title does not apply to the Office Senior Executive Service.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 899; Pub. L. 98–326, § 1(c), June 22, 1984, 98 Stat. 269; Pub. L. 106–303, § 4(b), Oct. 13, 2000, 114 Stat. 1069; Pub. L. 108–271, § 3(b), July 7, 2004, 118 Stat. 812; Pub. L. 110–323, § 9(b)(2), Sept. 22, 2008, 122 Stat. 3548.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 733(a) ..... | 31:52–4(a)(1). | Feb. 15, 1980, Pub. L. 96–191, § 5(a), 94 Stat. 31. |
| 733(b) ..... | 31:52–4(a)(2). | |
| 733(c) ..... | 31:52–4(a)(4). | |
| 733(d) ..... | 31:52–4(a)(3). | |

In subsection (a), before clause (1), the words ''promulgate regulations'' are omitted as surplus. The words ''(hereinafter referred to as the GAO Senior Executive Service)'' are omitted because of the restatement. In clause (1), the words ''for the Senior Executive Service'' are omitted as surplus. In clause (2), the words ''in the GAO Senior Executive Service . . . which are'' are omitted as surplus. In clause (3), before subclause (A), the words ''for the GAO Senior Executive Service'' are omitted as surplus. In subclause (A), the word ''es-

[1] See Change of Name note below.

[1] See Change of Name note below.

tablished'' is omitted as surplus. In clause (4), the words ''for the GAO Senior Executive Service'' are omitted as surplus. In clauses (5) and (7), the words ''officers and employees'' are substituted for ''members'' for consistency in the revised title and with other titles of the United States Code. In clause (5), the words ''the provisions applicable to the Office of Personnel Management and the President under'' are omitted as surplus. In clause (7), the words ''the provisions applicable to performance awards under'' are omitted as surplus.

In subsection (b), the words ''officer or employee'' are substituted for ''member'' for consistency in the revised title and with other titles of the Code.

In subsection (d), the words ''Employees in . . . the personnel system established under'' are omitted as surplus.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–323 struck out ''(d),'' after ''731(c),''.

2004—Subsec. (a)(3)(B). Pub. L. 108–271 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''adjusted at the same time and to the same extent as rates in the Senior Executive Service under section 5382 of title 5 are adjusted;''.

2000—Subsec. (a)(7), (8). Pub. L. 106–303 added par. (7) and redesignated former par. (7) as (8).

1984—Subsec. (c). Pub. L. 98–326 inserted ''(e)(1),'' after ''(d),''.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 3 of Pub. L. 108–271 effective Oct. 1, 2005, and applicable in the case of any annual pay adjustment taking effect on or after Oct. 1, 2005, subject to authority of Comptroller General to change pay adjustments or delay the effective date for certain groups of officers and employees, see section 13 of Pub. L. 108–271, set out as a note under section 731 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–326 effective Oct. 1, 1984, see section 2 of Pub. L. 98–326, set out as a note under section 731 of this title.

## § 734. Assignments and details to Congress

The Comptroller General may assign or detail an officer or employee of the Government Accountability Office to full-time continuous duty with a committee of Congress for not more than one year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 899; Pub. L. 98–367, title I, § 8, July 17, 1984, 98 Stat. 475; 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)* |
|---|---|---|
| 734(a) ..... | 31:1175(a). | Oct. 26, 1970, Pub. L. 91–510, § 235(a), 84 Stat. 1171. |
| 734(b) ..... | 31:1175(c). | Oct. 26, 1970, Pub. L. 91–510, 84 Stat. 1140, § 235(c); added Oct. 11, 1971, Pub. L. 92–136, § 8, 85 Stat. 378. |

In the section, the words ''officer or'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''Notwithstanding any other provision of law'' are omitted as surplus. The word ''continuous'' is substituted for ''on a continuing basis'' to eliminate unnecessary words. The words ''committee of Congress'' are substituted for ''committee of the Senate or House of Representatives or with any joint committee of Congress'' for consistency and to eliminate unnecessary words. The words ''any period of'' are omitted as surplus.

In subsection (b), the words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The word ''pay'' is substituted for ''salary'' for consistency in the revised title and with other titles of the Code.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1984—Pub. L. 98–367 struck out designation of provisions as ''(a)'' and struck out subsec. (b) which read as follows: ''A committee of the Senate or a joint committee of Congress for which the Secretary of the Senate disburses amounts shall reimburse the Comptroller General for the pay of each officer or employee of the Office for the time the officer or employee is assigned or detailed to the committee or joint committee.''

## § 735. Relationship to other laws

(a) Except as provided in section 733(c) of this title, this subchapter and subchapter IV of this chapter do not affect sections 702(b), 703, 731(c) and (e), 772, 775(a) and (d) of this title.

(b) Except as specifically provided in this subchapter and subchapter IV of this chapter, those subchapters do not change the application of a law applicable to officers and employees of the Government Accountability Office.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 899; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–323, § 9(b)(3), Sept. 22, 2008, 122 Stat. 3548.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 735(a) ..... | 31:52–6(a). | Feb. 15, 1980, Pub. L. 96–191, § 7, 94 Stat. 33. |
| 735(b) ..... | 31:52–6(b). | |

In subsection (a), the words ''repealing, amending, or otherwise'' are omitted as surplus.

In subsection (b), the words ''repeal . . . or limit'' are omitted as surplus. The words ''officers and'' are added for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–323 substituted ''731(c) and (e),'' for ''731(c)–(e),''.

2004—Subsec. (b). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

## § 736. Authorization of appropriations

Amounts necessary to carry out this subchapter and subchapter IV of this chapter may be appropriated to the Comptroller General.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 900.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 736 ..... | 31:52–7. | Feb. 15, 1980, Pub. L. 96–191, § 9, 94 Stat. 34. |

The word ''hereby'' is omitted as surplus. The words ''to the Comptroller General'' are added for consistency. The words ''beginning fiscal year 1981 and for each fiscal year thereafter'' are omitted as executed.

SUBCHAPTER IV—PERSONNEL APPEALS BOARD

**§ 751. Organization**

(a) The Government Accountability Office has a General Accounting Office Personnel Appeals Board.[1] The Board is composed of 5 members appointed by the Comptroller General. An individual may be appointed only if the individual—

(1) is not a current or former officer or employee of the Office or of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants,;[2]

(2) has the demonstrated ability, background, training, and experience necessary to be qualified specially to serve on the Board; and

(3) demonstrates a capacity and willingness to devote sufficient time to dispose of cases in a timely way.

(b) The Comptroller General shall appoint members only—

(1) after considering any candidates who are recommended to the Comptroller General (at such time and in such manner as the Comptroller General requires) by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and

(2) after the Comptroller General consults with organizations representing employees of the Office and with any member of each committee of Congress, having legislative jurisdiction over the personnel management system maintained under section 732 of this title, whom the chairman of the committee designates.

(c)(1) Except as provided in paragraph (2), the term of a member of the Board is 5 years. A member may not be reappointed. An individual appointed to fill a vacancy occurring before the expiration of a term of office is appointed for the remainder of the term. However, if the unexpired part of a term is less than one year, the Comptroller General may appoint an individual for a 5-year term plus the unexpired part of the term. When the term of a member ends, the member may continue to serve until a successor takes office or for 6 months after the term expires, whichever is earlier.

(2)(A) The term of a member serving on the date of the enactment of the General Accounting Office Personnel Amendments Act of 1988 shall be as follows:

(i) Of the 2 members appointed in 1985, the term of 1 such member shall be 5 years, and the term of the other such member shall be 6 years.

(ii) Of the 2 members appointed in 1986, the term of 1 such member shall be 6 years, and the term of the other such member shall be 7 years.

(iii) The term of the member appointed in 1987 shall be 7 years.

(B) Within 60 days after the date referred to in subparagraph (A), the Comptroller General shall determine—

(i) with respect to the members under subparagraph (A)(i), which will have a term of 5 years and which will have a term of 6 years; and

(ii) with respect to the members under subparagraph (A)(ii), which will have a term of 6 years and which will have a term of 7 years.

(C) A term established for a member under this paragraph shall be measured—

(i) from the date on which the member was originally appointed; or

(ii) in the case of a member serving for the unexpired portion of a term, from the appointment date of the individual who was originally appointed to serve for such term.

(d) A member may be removed by a majority of the Board (except the member subject to removal) only for inefficiency, neglect of duty, or malfeasance in office. A member subject to removal shall be given notice and an opportunity for a hearing before the Board unless the member waives the opportunity in writing.

(e) While carrying out a member's duties (including travel), a member who is not an officer or employee of the United States Government is entitled to basic pay at a rate equal to the daily rate of basic pay payable for grade GS–18 of the General Schedule. Each member is entitled to travel expenses and per diem allowances under section 5703 of title 5.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 900; Pub. L. 100–426, title I, §§ 101, 102(b), Sept. 9, 1988, 102 Stat. 1598, 1599; Pub. L. 103–283, title III, § 312(e)(4)(A), July 22, 1994, 108 Stat. 1446; 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)* |
|---|---|---|
| 751(a) ..... | 31:52–3(a)(1), (3). | Feb. 15, 1980, Pub. L. 96–191, § 4(a)–(d), 94 Stat. 29. |
| 751(b) ..... | 31:52–3(a)(2), (4). | |
| 751(c) ..... | 31:52–3(b). | |
| 751(d) ..... | 31:52–3(c). | |
| 751(e) ..... | 31:52–3(d). | |

In subsection (a), before clause (1), the words ''The General Accounting Office has a General Accounting Office Personnel Appeals Board'' are substituted for 31:52–3(a)(1)(1st sentence less words between parentheses) for consistency. The text of 31:52–3(a)(1)(1st sentence words between parentheses) is omitted because of the restatement. The words ''in accordance with this subsection'' and ''as a member of the Board'' are omitted as surplus. In clause (1), the words ''a total of'' are omitted as surplus. In clause (4), the words ''to service as a member of the Board in order to enable the Board . . . under this section'' are omitted as surplus.

In subsection (b), before clause (1), the words ''under paragraph (1)'' are omitted as surplus. The word ''only'' is added for clarity. In clause (1), the words ''in a way'' are substituted for ''in the form . . . and according to the procedures'' to eliminate unnecessary words. The words ''eligible to make such a submission under paragraph (4)'', ''shall be eligible to submit a list of candidates to the Comptroller General under paragraph (2)(A)'', and ''the membership of'' are omitted as surplus. In clause (2), the word ''management'' is added for consistency. The words ''under section 772 of this title'' are added for clarity. The words ''to consult with the Comptroller General'' are omitted as surplus.

In subsection (c), the words ''Except as provided in paragraph (2)'' are omitted because of the restatement. The text of 31:52–3(b)(2) is omitted as executed. The

[1] See Change of Name note below.

[2] So in original. The comma probably should not appear.

words ''of the Board'' and 31:52–3(b)(4)(1st sentence) are omitted as surplus. The words ''occurring before the expiration of a term of office'' are substituted for ''with respect to which such vacancy has occurred'' for clarity. The words ''or for 6 months after the term expires, whichever is earlier'' are substituted for 31:52–3(b)(5)(words after comma) to eliminate unnecessary words.

In subsection (d), the words ''of the Board . . . from the Board'', ''the members of'', and ''proposed action of'' are omitted as surplus. The words ''prior to any vote of the members of the Board under paragraph (1)(A)'' are omitted as surplus. The words ''unless the member waives the opportunity in writing'' are substituted for 31:52–3(c)(2)(last sentence) to eliminate unnecessary words.

In subsection (e), the words ''While carrying out a member's duties'' are substituted for ''for each day such member is engaged in the actual performance of duties as a member of the Board'' to eliminate unnecessary words. The words ''an officer or employee of'' are substituted for ''otherwise employed by'' for consistency in the revised title and with other titles of the United States Code. The words ''payable . . . under the General Schedule under section 5332 of title 5, United States Code'' and 31:52–3(d)(2d sentence) are omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of the General Accounting Office Personnel Amendments Act of 1988, referred to in subsec. (c)(2)(A), is the date of enactment of Pub. L. 100–426, which was approved Sept. 9, 1988.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in introductory provisions.

1994—Subsec. (a)(1). Pub. L. 103–283 inserted ''or of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants,'' after ''Office''. See Application of Provisions Amended by Pub. L. 103–283 note below.

1988—Subsec. (a). Pub. L. 100–426, § 101(a), struck out par. (1) which required that Board appointees have 3 years full-time or part-time experience in adjudicating or arbitrating personnel matters, and redesignated pars. (2), (3), and (4) as (1), (2), and (3), respectively.

Subsec. (b)(1). Pub. L. 100–426, § 101(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''from a written list of candidates, submitted to the Comptroller General in a way and at the time the Comptroller General requires, by any organization the Comptroller General believes is composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and''.

Subsec. (c)(1). Pub. L. 100–426, § 101(c)(1), (2), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), the'' for ''The'', and substituted ''5'' for ''3'' in two places.

Subsec. (c)(2). Pub. L. 100–426, § 101(c)(3), added par. (2).

Subsec. (e). Pub. L. 100–426, § 102(b), substituted ''basic pay at a rate equal to the daily rate of basic pay payable for grade GS–18 of the General Schedule'' for ''pay at a rate equal to the daily rate for GS–18''.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

APPLICATION OF PROVISIONS AMENDED BY PUB. L. 103–283

Pub. L. 104–1, title V, § 504(c)(2), Jan. 23, 1995, 109 Stat. 41, provided that: ''The provisions of sections 751, 753, and 755 of title 31, United States Code, amended by section 312(e) of the Architect of the Capitol Human Resources Act [Pub. L. 103–283], shall be applied and administered as if such section 312(e) [amending this section and sections 753 and 755 of this title and enacting section 1831(e) of Title 2, The Congress] (and the amendments made by such section) had not been enacted.''

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.

## § 752. Chairman and General Counsel

(a) The General Accounting Office Personnel Appeals Board[1] shall select one of its members as Chairman. The Chairman is the chief executive and administrative officer of the Board.

(b)(1) The Comptroller General shall appoint as General Counsel of the Board an individual the Chairman selects. The General Counsel serves at the pleasure of the Chairman.

(2) The Chairman shall fix the pay of the General Counsel. The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for grade GS–16 of the General Schedule.

(3) The General Counsel shall—

(A) investigate an allegation about a prohibited personnel practice under section 732(b)(2) of this title to decide if there are reasonable grounds to believe the practice has occurred, exists, or will be taken by an officer or an employee of the Government Accountability Office;

(B) investigate an allegation about a prohibited political activity under section 732(b)(3) of this title;

(C) investigate a matter under the jurisdiction of the Board if the Board or a member of the Board requests; and

(D) help the Board carry out its duties and powers.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 901; Pub. L. 100–426, title I, § 102(a), Sept. 9, 1988, 102 Stat. 1599; 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)* |
|---|---|---|
| 752(a) ..... | 31:52–3(e). | Feb. 15, 1980, Pub. L. 96–191, § 4(e)–(g), 94 Stat. 30. |
| 752(b) ..... | 31:52–3(f), (g). | |

In subsection (a), the words ''members of the'' are omitted as surplus.

In subsection (b)(1), the words ''(hereinafter referred to as the 'General Counsel')'' are omitted because of the restatement. The words ''shall be eligible for reappointment and'' are omitted as surplus.

In subsection (b)(2), the word ''annual'' is added for clarity. The word ''basic'' is added for consistency in the revised title and with other titles of the United States Code. The words ''payable . . . of the General Schedule'' are omitted as surplus.

In subsection (b)(3)(A), the words ''to the extent necessary'' are omitted as surplus. The words ''officer or'' are added for consistency in the revised title and with other titles of the Code.

In subsection (b)(3)(D), the word ''otherwise'' is omitted as surplus. The words ''duties and powers'' are substituted for ''functions'' for consistency.

[1] See Change of Name note below.

AMENDMENTS

2004—Subsec. (b)(3)(A). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1988—Subsec. (b)(2). Pub. L. 100–426 substituted ''The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for grade GS–16 of the General Schedule'' for ''The annual rate of basic pay of the General Counsel may be not more than the maximum rate for GS–15''.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

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.

## § 753. Duties and powers

(a) The General Accounting Office Personnel Appeals Board[1] may consider and order corrective or disciplinary action in a case arising from—

(1) an officer or employee appeal about a removal, suspension for more than 14 days, reduction in grade or pay, or furlough of not more than 30 days;

(2) a prohibited personnel practice under section 732(b)(2) of this title;

(3) a prohibited political activity under section 732(b)(3) of this title;

(4) a decision of an appropriate unit of employees for collective bargaining;

(5) an election or certification of a collective bargaining representative;

(6) a matter appealable to the Board under the labor-management relations program under section 732(e)(2) of this title, including a labor practice prohibited under section 732(e)(1) of this title;

(7) an action involving discrimination prohibited under section 732(f)(1) of this title;

(8) an issue about Office personnel the Comptroller General by regulation decides the Board shall resolve; and

(9) an action involving discrimination prohibited under section 312(e)(2)[2] of the Architect of the Capitol Human Resources Act.

(b) The Board has no authority to issue a stay of any reduction in force action.

(c) The Board may delegate to a member or a panel of members the authority to act under subsection (a) of this section. A decision of a member or panel under subsection (a) is deemed to be a final decision of the Board unless the Board reconsiders the decision under subsection (d) of this section.

(d) On motion of a party or on its own initiative, the Board may reconsider a decision under subsection (a) of this section by the 30th day after the decision is made.

(e) The Board shall prescribe regulations—

(1) providing for officer and employee appeals consistent with sections 7701 and 7702 of title 5; and

(2) on the operating procedure of the Board.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 901; Pub. L. 103–283, title III, § 312(e)(4)(B), July 22, 1994, 108 Stat. 1446; Pub. L. 104–53, title II, § 213, Nov. 19, 1995, 109 Stat. 535.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 753(a) ..... | 31:52–3(h). | Feb. 15, 1980, Pub. L. 96–191, § 4(h), (j), (k), (m), 94 Stat. 30, 31. |
| 753(b) ..... | 31:52–3(j). | |
| 753(c) ..... | 31:52–3(k). | |
| 753(d) ..... | 31:52–3(m). | |

In the section, the words ''officer or'' are added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words ''decide'' and ''(where appropriate)'' are omitted as surplus. In clause (6), the words ''relations program'' are substituted for ''system'' for consistency. In clause (8), the words ''most appropriately'' are omitted as surplus.

In subsection (b), the words ''delegate . . . to act'' are substituted for ''designate . . . to take any action which the Board is authorized to take'' for consistency and to eliminate unnecessary words. The words ''individual'' and ''reopened and'' are omitted as surplus.

In subsection (c), the words ''reopen and'' are omitted as surplus.

In subsection (d)(1), the words ''the principles of'' are omitted as surplus.

REFERENCES IN TEXT

Section 312(e)(2) of the Architect of the Capitol Human Resources Act, referred to in subsec. (a)(9), was classified to section 1831(e)(2) of Title 2, The Congress, and was repealed by Pub. L. 104–1, title V, § 504(c)(1), Jan. 23, 1995, 109 Stat. 41, except as provided in section 1435 of Title 2.

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–53, § 213(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104–53, § 213(1), (3), redesignated subsec. (b) as (c) and in second sentence substituted ''under subsection (d)'' for ''under subsection (c)''. Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 104–53, § 213(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

1994—Subsec. (a)(9). Pub. L. 103–283 added par. (9). See Application of Provisions Amended by Pub. L. 103–283 note below.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

APPLICATION OF PROVISIONS AMENDED BY PUB. L. 103–283

Provisions of this section amended by section 312(e) of Pub. L. 103–283 to be applied and administered as if section 312(e) and the amendments made by section 312(e) had not been enacted, see section 504(c)(2) of Pub. L. 104–1, set out as a note under section 751 of this title.

## § 754. Action by the Comptroller General

When the Comptroller General has authority, the Comptroller General promptly shall carry out action the General Accounting Office Per-

[1] See Change of Name note below.

[2] See References in Text note below.

sonnel Appeals Board[1] orders under section 753 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 902.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 754 ..... | 31:52–3(i). | Feb. 15, 1980, Pub. L. 96–191, § 4(i), 94 Stat. 31. |

The words ''to do so'' and ''corrective'' are omitted as surplus. The words ''under section 753 of this title'' are added for clarity.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

## § 755. Judicial review

(a) A final decision under section 753(a)(1)–(3), (6),,[1] (7) or (9) of this title may be reviewed by the United States Court of Appeals for the Federal Circuit. Chapter 158 of title 28 applies to a review under this subchapter, except the petition for review shall be filed by the 30th day after the petitioner receives notice of the decision. The court shall set aside a final decision the court decides is—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(b) If an officer, employee, applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants is the prevailing party in a proceeding under this section, and the decision is based on a finding of discrimination prohibited under section 732(f) of this title or under section 312(e)(2)[2] of the Architect of the Capitol Human Resources Act, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 902; Pub. L. 98–216, § 1(1), Feb. 14, 1984, 98 Stat. 3; Pub. L. 100–426, title I, § 103(a), (b), Sept. 9, 1988, 102 Stat. 1599; Pub. L. 103–283, title III, § 312(e)(4)(C), July 22, 1994, 108 Stat. 1446.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 755 ..... | 31:52–3(*l*). | Feb. 15, 1980, Pub. L. 96–191, § 4(*l*), 94 Stat. 31. |

In the section, before clause (1), the first sentence is substituted for 31:52–3(*l*)(1)(1st sentence) for consistency with other titles of the United States Code. The word ''review'' is substituted for ''appeal'' for consistency. The words ''the procedures of'', ''any other provision of law'', ''of a final decision of the Board . . . the date . . . of the Board'', and ''In any case filed under paragraph (1) . . . review the record and'' are omitted as surplus. The words ''final decision'' are substituted for ''agency action, findings, or conclusions'' for consistency. Clause (2) is substituted for 31:52–3(*l*)(2)(B) to eliminate unnecessary words.

1984 ACT

This clarifies section 755 by conforming it more closely to the language of the source provision of the section.

REFERENCES IN TEXT

Section 312(e)(2) of the Architect of the Capitol Human Resources Act, referred to in subsec. (b), was classified to section 1831(e)(2) of Title 2, The Congress, and was repealed by Pub. L. 104–1, title V, § 504(c)(1), Jan. 23, 1995, 109 Stat. 41, except as provided in section 1435 of Title 2.

Section 706(k) of the Civil Rights Act of 1964, referred to in subsec. (b), is classified to section 2000e–5(k) of Title 42, The Public Health and Welfare.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–283, § 312(e)(4)(C)(i), substituted '', (7) or (9)'' for ''or (7)'' in introductory provisions. See Application of Provisions Amended by Pub. L. 103–283 note below.

Subsec. (b). Pub. L. 103–283, § 312(e)(4)(C)(ii), substituted ''applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants'' for ''or applicant for employment'', and inserted ''or under section 312(e)(2) of the Architect of the Capitol Human Resources Act'' after ''of this title''. See Application of Provisions Amended by Pub. L. 103–283 note below.

1988—Subsec. (a). Pub. L. 100–426, § 103(a), (b)(1), designated existing provisions as subsec. (a) and substituted ''Federal Circuit'' for ''District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides''.

Subsec. (b). Pub. L. 100–426, § 103(b)(2), added subsec. (b).

1984—Pub. L. 98–216 substituted ''A final decision under section 753(a)(1)–(3), (6), or (7) of this title may be reviewed by the United States Court of Appeals for the District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides'' for ''A person may apply for review of a final decision under section 753(a)(1)–(3), (6), or (7) of this title by filing a petition for review with the United States Court of Appeals for the District of Columbia Circuit or with the court of appeals of the United States for the circuit in which the person resides'' in provisions preceding par. (1).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 103(c) of Pub. L. 100–426 provided that: ''Nothing in any of the amendments made by this section [amending this section] shall apply with respect to an appeal pending on the date of the enactment of this Act [Sept. 9, 1988].''

APPLICATION OF PROVISIONS AMENDED BY PUB. L. 103–283

Provisions of this section amended by section 312(e) of Pub. L. 103–283 to be applied and administered as if section 312(e) and the amendments made by section 312(e) had not been enacted, see section 504(c)(2) of Pub. L. 104–1, set out as a note under section 751 of this title.

# SUBCHAPTER V—ANNUITIES

## § 771. Definitions

In this subchapter—

(1) ''dependent child'' means an unmarried dependent child (including a stepchild or adopted child) who is—

(A) under 18 years of age;

(B) incapable of self-support because of physical or mental disability; or

[1] See Change of Name note below.

[1] So in original. Second comma probably should follow ''(7)''.

[2] See References in Text note below.

(C) between 18 and 22 years of age and is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purposes of this subchapter, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while such child is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim period between school years if the interim period is not more than 5 months and if such child shows to the satisfaction of the General Counsel of the Government Accountability Office that such child has a bona fide intention of continuing in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim period.

(2) ''surviving spouse'' means a surviving spouse of an individual who was a Comptroller General or retired Comptroller General and the spouse—

(A) was married to the individual for at least 1 year immediately before the individual died; or

(B) has not remarried before age 55 and is the parent of issue by the marriage.

(3) service as a Comptroller General equals the number of years and complete months an individual is Comptroller General.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 902; Pub. L. 100–426, title II, § 202, Sept. 9, 1988, 102 Stat. 1600; 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)* |
|---|---|---|
| 771(1), (2) | 31:43b(g). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(g), (p); added July 13, 1959, Pub. L. 86–87, 73 Stat. 198, 200. |
| 771(3) ..... | 31:43b(p). | |

In this subchapter, the words ''surviving spouse'', ''spouse'', ''surviving spouse's'', and ''parent'' are substituted for ''widow'', ''wife'', ''surviving widow's'', and ''mother'', respectively, because of 5:7202(c).

In clause (3), the words ''or retired Comptroller General'' are omitted as executed because a retired Comptroller General could elect survivor benefits and include retirement service only if the Comptroller General had retired by July 13, 1959. The word ''total'' is omitted as surplus. The words ''complete months'' are substituted for ''twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any'' to eliminate unnecessary words. The words ''an individual is Comptroller General'' are added for clarity.

AMENDMENTS

2004—Par. (1)(C). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1988—Par. (1)(C). Pub. L. 100–426, § 202(a), added subpar. (C).

Par. (2)(A). Pub. L. 100–426, § 202(b)(1), substituted ''1 year'' for ''2 years''.

Par. (2)(B). Pub. L. 100–426, § 202(b)(2), inserted ''before age 55'' after ''remarried''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–426 effective after end of 60-day period beginning Sept. 9, 1988, with certain exceptions, see section 208 of Pub. L. 100–426, set out as a note under section 772 of this title.

## § 772. Annuity of the Comptroller General

(a) Except as provided in subsection (c) of this section, a Comptroller General serving a complete term as Comptroller General or who retires under section 703(e)(1) of this title is entitled to receive an annuity for life equal to the pay the Comptroller General is receiving on completion of the term or at the time of retirement. An annuity of a Comptroller General who completes a term before becoming 65 years of age is reduced by .25 percent for each complete month the Comptroller General is under 65 years of age.

(b) Except as provided in subsection (c) of this section, a Comptroller General becoming permanently disabled shall be retired and is entitled to receive an annuity for life equal to—

(1) the pay of the Comptroller General at the time of retirement if the Comptroller General served at least 10 years; or

(2) 50 percent of the pay if the Comptroller General served less than 10 years.

(c) A Comptroller General who, when appointed, is or has been subject to subchapter III of chapter 83 or chapter 84 of title 5 remains subject to such subchapter III or such chapter 84 (as the case may be) unless the Comptroller General elects in writing to receive an annuity under this section. An election is irrevocable and must be made within 10 years and 60 days after the start of service as Comptroller General. A Comptroller General electing to receive an annuity under this section is entitled to a refund of the lump-sum credit to the account of the Comptroller General in the Civil Service Retirement and Disability Fund.

(d) A Comptroller General (except a Comptroller General remaining subject to subchapter III of chapter 83 of title 5) shall—

(1) deposit with the Government Accountability Office for redeposit in the Treasury as miscellaneous receipts as a contribution to the annuity—

(A) 3.5 percent of the pay received as Comptroller General before deductions are made under clause (2)(A) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if electing survivor benefits under this subchapter; or

(B) 8 percent of the pay received as Comptroller General before deductions are made under clause (2)(B) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if not electing survivor benefits under this subchapter; and

(2) have—

(A) 3.5 percent of the pay received as Comptroller General deducted as a contribution to the annuity if electing survivor benefits under this subchapter; or

(B) 8 percent of the pay received as Comptroller General deducted as a contribution to the annuity if not electing survivor benefits under this subchapter.

(e) A Comptroller General receiving benefits under this section may not receive retirement or disability benefits under another law of the United States.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 902; Pub. L. 100–426, title II, § 203, Sept. 9, 1988, 102 Stat. 1600; 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)* |
|---|---|---|
| 772(a) ..... | 31:43(2d par. 1st sentence). | June 10, 1921, ch. 18, 42 Stat. 20, § 303(2d par. 1st, 2d, last sentences); added July 28, 1953, ch. 256, 67 Stat. 229. |
| 772(b) ..... | 31:43(2d par. 2d sentence). | |
| 772(c) ..... | 31:43(3d par. 1st, 2d sentences, 3d sentence words before comma). | June 10, 1921, ch. 18, 42 Stat. 20, § 303(3d par. 1st–3d sentences); added July 26, 1966, Pub. L. 89–520, § 1, 80 Stat. 329; Oct. 25, 1978, Pub. L. 95–512, § 4(b)(1), 92 Stat. 1800. |
| 772(d) ..... | 31:43(2d par. 4th sentence, 3d par. last sentence). | June 10, 1921, ch. 18, 42 Stat. 20, § 303(2d par. 4th sentence, 3d par. last sentence); added Oct. 25, 1978, Pub. L. 95–512, § 4(a), (b)(2), 92 Stat. 1800. |
| 772(e) ..... | 31:43(2d par. last sentence, 3d par. 3d sentence words after comma). | |

In subsections (a) and (b), the words ''Except as provided in subsection (c) of this section'' are added for clarity. The words ''is entitled to receive'' are substituted for ''shall receive'' as being more precise and for consistency with title 5.

In subsection (a), the words ''under section 703(e)(1) of this title'' are added for clarity. The words ''in his office'' are omitted as surplus. The words ''before becoming 65 years of age'' are added for clarity. The words ''at such completion'' are omitted as surplus.

In subsection (b), before clause (1), the words ''from performing his duties'' are omitted as surplus.

In subsections (c) and (d), the words ''Comptroller General'' are substituted for ''person appointed to the Office of Comptroller General'' and ''person who is appointed to the Office of Comptroller General'' to eliminate unnecessary words.

In subsection (c), the words ''Notwithstanding the preceding paragraph of this section'' are omitted as surplus. The words ''after January 1, 1966'' are omitted as executed. The words ''receive an annuity under this section'' are substituted for ''and no deduction from his salary shall be made under the preceding paragraph . . . be subject to the provisions of the preceding paragraph of this section'' for clarity and because of the restatement.

In subsection (d), before clause (1), the words ''after October 25, 1978'' are omitted as executed. The words ''(except a Comptroller General remaining subject to subchapter III of chapter 83 of title 5)'' are added for clarity. In clauses (1) and (2), the word ''pay'' is substituted for ''salary'' for consistency in the revised title and with other titles of the United States Code. The words ''a sum equal to'' are omitted as surplus. In clause (1), before subclause (A), the words ''makes such an election under this paragraph'' are omitted as surplus. The word ''redeposit'' is substituted for ''covering'' for clarity. The words ''the general fund of'' and ''authorized under the preceding paragraph'' are omitted as surplus. In subclauses (A) and (B), the words ''before deductions are made under clause (2)(A) of this subsection'' and ''before deductions are made under clause (2)(B) of this subsection'' are substituted for ''prior to the date current deductions begin from his salary'' for clarity. The words ''per annum'' are omitted as surplus. In clause (2), the words ''authorized by this paragraph'' are omitted as surplus.

In subsection (e), the words ''Comptroller General'' are substituted for ''person'' for clarity.

AMENDMENTS

2004—Subsec. (d)(1). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in introductory provisions.

1988—Subsec. (a). Pub. L. 100–426, § 203(1), substituted ''retires under section 703(e)(1) of this title'' for ''is retired for age under section 703(e)(1) of this title after serving at least 10 years''.

Subsec. (c). Pub. L. 100–426, § 203(2), substituted ''subchapter III of chapter 83 or chapter 84 of title 5 remains subject to such subchapter III or such chapter 84 (as the case may be)'' for ''subchapter III of chapter 83 of title 5 remains subject to subchapter III''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 208 of title II of Pub. L. 100–426 provided that: ''The amendments made by this title [amending this section and sections 703, 771, 773, 774, 776, and 777 of this title] shall be effective after the end of the 60-day period beginning on the date of enactment of this Act [Sept. 9, 1988], except that an individual who, as of such date of enactment, is receiving an annuity under subchapter V of chapter 7 of title 31, United States Code, as a retired Comptroller General (and the spouse and any dependent children of such individual who may survive such individual) shall remain subject to the provisions of such subchapter, as in effect immediately before such date, if the retired Comptroller General makes an election under this section. An election under this section shall be ineffective unless it is made in writing and received by the General Counsel of the General Accounting Office [now Government Accountability Office] before the end of the 60-day period referred to in the preceding sentence.''

## § 773. Election of survivor benefits

(a) To provide survivor benefits, a Comptroller General may elect in writing to reduce the pay and annuity of the Comptroller General. An election shall be made within 6 months of taking office or, if an election is made under section 772(c) of this title, by the 60th day after making an election under section 772(c).

(b) A Comptroller General electing to provide survivor benefits shall—

(1) have 4.5 percent of the pay received as Comptroller General and 5 percent of the annuity of the Comptroller General deducted; and

(2) deposit with the Government Accountability Office for redeposit in the Treasury as miscellaneous receipts—

(A) 4.5 percent of the pay and annuity received as Comptroller General before the deductions begin;

(B) 4.5 percent of basic pay received as a member of Congress or for other civilian service on which a surviving spouse's annuity is computed under section 774(d) of this title; and

(C) 4 percent interest before January 1, 1948, and 3 percent interest after December 31, 1947, compounded every December 31, on amounts deposited.

(c) This subchapter does not prevent a surviving spouse or dependent child from receiving another annuity while receiving an annuity under section 774 of this title. However, service used in

computing an annuity under section 774 may not be used in computing the other annuity.

(d) The reduction in the Comptroller General's annuity under subsection (b)(1) for the purpose of providing survivor benefits shall be terminated for each full month after the death of the spouse.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 903; Pub. L. 100–426, title II, § 204, Sept. 9, 1988, 102 Stat. 1600; 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)* |
|---|---|---|
| 773(a) ..... | 31:43b(a). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(a); added July 13, 1959, Pub. L. 86–87, 73 Stat. 197; July 26, 1966, Pub. L. 89–520, § 2, 80 Stat. 329. |
| 773(b) ..... | 31:43b(b), (c). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(b), (c); added July 13, 1959, Pub. L. 86–87, 73 Stat. 197; Oct. 25, 1978, Pub. L. 95–512, § 2(1), 92 Stat. 1799. |
| 773(c) ..... | 31:43b(q). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(q); added July 13, 1959, Pub. L. 86–87, 73 Stat. 200. |

In subsections (a) and (b), the word ''pay'' is substituted for ''salary'', and the word ''annuity'' is substituted for ''retirement pay'', for consistency in the revised title and with other titles of the United States Code.

In subsection (a), the words ''To provide'' are substituted for ''for purposes of'' for clarity. The words ''or in the case of the Comptroller General currently in office and any retired Comptroller General, within six months after July 13, 1959'' are omitted as executed. The words ''as hereinafter provided'' are omitted as surplus.

In subsection (b), before clause (1), the words ''of the United States'' are omitted as surplus. The words ''or retired Comptroller General'' are omitted as executed. The word ''provide'' is substituted for ''receive'' for clarity and consistency. In clause (2), before subclause (A), the word ''redeposit'' is substituted for ''covering'' for clarity. The words ''the general fund of'' and ''a sum equal to'' are omitted as surplus. In subclause (A), the words ''the date current . . . from his salary and retirement pay'' and 31:43b(c)(last sentence) are omitted as surplus. In subclause (B), the words ''salary . . . or compensation for service'' are omitted as surplus. The words ''member of Congress'' are substituted for ''Senator, Representative, Delegate, or Resident Commissioner in the Congress of the United States'' for consistency and to eliminate unnecessary words.

In subsection (c), the words ''be construed to'' and ''eligible therefore'' are omitted as surplus. The words ''receiving another annuity while'' are substituted for ''simultaneously . . . and any annuity . . . to which she would otherwise be entitled under any other law'' to eliminate unnecessary words. The words ''(including old age and survivor benefits)'' and ''without regard to this section'' are omitted as surplus.

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in introductory provisions.

1988—Subsec. (b)(1). Pub. L. 100–426, § 204(1), inserted ''5 percent of the'' before ''annuity''.

Subsec. (b)(2)(C). Pub. L. 100–426, § 204(2), substituted ''3 percent'' for ''4.5 percent''.

Subsec. (d). Pub. L. 100–426, § 204(3), added subsec. (d).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–426 effective after end of 60-day period beginning Sept. 9, 1988, with certain exceptions, see section 208 of Pub. L. 100–426, set out as a note under section 772 of this title.

## § 774. Survivor annuities

(a) In this section—

(1) ''allowable military service'' means honorable active service of not more than 5 years in an armed force (including service in the National Guard when ordered to active duty for the United States Government), when the service is not creditable in computing another annuity.

(2) ''other prior allowable service'' means civilian service as an officer or employee of the Government or District of Columbia government not covered by subsection (d)(1) of this section.

(3) ''congressional employee'' has the same meaning given that term in section 2107 of title 5.

(b) A survivor annuity shall be paid under this subchapter when a Comptroller General—

(1) makes an election under section 773 of this title;

(2) dies in office or while receiving an annuity under section 772 of this title;

(3) had at least 18 months of civilian service at death computed under subsections (a) and (d) of this section; and

(4) had deductions or deposits under section 773 of this title made for the last 18 months of civilian service.

(c) If the Comptroller General or retired Comptroller General is survived—

(1) only by a spouse, the surviving spouse shall receive an annuity computed under subsection (d) of this section beginning on the death of the Comptroller General or retired Comptroller General or when the spouse is 50 years of age, whichever is later;

(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity computed under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

(A) 10 percent of the average annual pay computed under subsection (d)(1) of this section; or

(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children; or

(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection, divided by the number of dependent children;

(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section; or

(C) 40 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children.

(d) The annuity of a surviving spouse is equal to—

(1) 1.5 percent of the average annual pay (based on the 3 years of highest pay received as Comptroller General and other prior allowable service) times—

(A) the number of years of—

(i) service as Comptroller General or a member of Congress; and

(ii) prior allowable military service; and

(B) not more than 15 years of prior allowable service as a congressional employee; plus

(2) .75 percent of the average pay computed under clause (1) of this subsection times the number of years of other allowable service.

(e) A surviving spouse's annuity may not be more than 50 percent nor less than 25 percent of the average annual pay computed under subsection (d)(1) of this section. If a Comptroller General does not make the deposit under section 773(b) of this title, a surviving spouse's annuity shall be credited with the service during which a deposit was not made, unless the spouse elects not to have the service credited. However, the annuity shall be reduced by 10 percent of the amount of the unpaid deposit, computed on the date the Comptroller General or retired Comptroller General dies.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 904; Pub. L. 100–426, title II, § 205, Sept. 9, 1988, 102 Stat. 1600.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 774(a) ..... | 31:43b(*o*). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(d), (*o*); added July 13, 1959, Pub. L. 86–87, 73 Stat. 197, 200. |
| 774(b), (c) | 31:43b(e). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(e), (n); added July 13, 1959, Pub. L. 86–87, 73 Stat. 197, 200; Oct. 25, 1978, Pub. L. 95–512, § 2(2)–(4), 92 Stat. 1799. |
| 774(d) ..... | 31:43b(n)(less words after last comma). | |
| 774(e) ..... | 31:43b(d).<br>31:43b(n)(words after last comma). | |

In subsection (a)(1), the words ''in an armed force'' are substituted for ''in the Army, Navy, Air Force, Marine Corps, or Coast Guard'' for consistency with title 10. The word ''only'' is omitted as surplus. The word ''Government'' is added for consistency. The word ''computing'' is added for clarity. The word ''annuity'' is substituted for ''retirement or retired pay'' for consistency in the revised title and with other titles of the United States Code. The words ''under any other provision of law'' are omitted as surplus.

Subsection (a)(3) is substituted for 31:43b(*o*)(1st sentence) for consistency in the revised title and with other titles of the Code.

In subsection (b), before clause (1), the words ''A survivor annuity shall be paid under this subchapter when'' are added for clarity. The words ''or retired Comptroller General'' are omitted as executed. In clause (1), the words ''made an election under section 733 of this title'' are substituted for ''has elected to bring himself within the purview of this section'' for clarity. In clause (2), the word ''annuity'' is substituted for ''retirement pay'' for consistency in the revised title and with other titles of the Code. In clause (4), the words ''salary'' and ''actually'' are omitted as surplus.

In subsection (c)(1), the words ''only by a spouse'' are substituted for ''by a widow but not by a dependent child'' to eliminate unnecessary words.

In subsection (c)(2), before subclause (A), the words ''or children'' and ''in an amount'' are omitted as surplus.

In subsection (c)(3), before subclause (A), the words ''only by a dependent child'' are substituted for ''no surviving widow but leaves a surviving dependent child or children'' to eliminate unnecessary words. In subclause (A), the words ''the amount of'' are omitted as surplus. The words ''a surviving spouse'' are substituted for ''such widow . . . had she survived'' to eliminate unnecessary words.

In subsection (d), before clause (1), the words ''of a Comptroller General or retired Comptroller General who has elected to bring himself within the purview of this section'' are omitted as surplus. In clauses (1) and (2), the word ''pay'' is substituted for ''salary'' for consistency in the revised title and with other titles of the Code. In clause (1), before subclause (A), the words ''by him for service . . . service in which his'' are omitted as surplus. In subclause (A)(i), the words ''member of Congress'' are substituted for ''Senator, Representative, Delegate, or Resident Commissioner in the Congress of the United States'' for consistency and to eliminate unnecessary words. The words ''his years of service as'' and ''of the United States'' are omitted as surplus.

In subsection (e), the words ''and shall be further reduced in accordance with subsection (d) of this section if applicable'' are omitted because of the restatement. The words ''or a retired Comptroller General'' are omitted as executed. The words ''during which a deposit was not made'' are substituted for ''rendered'' for clarity. The word ''unpaid'' is added for clarity.

AMENDMENTS

1988—Subsec. (b)(3), (4). Pub. L. 100–426, § 205(1), substituted ''18 months'' for ''5 years''.

Subsec. (c)(2), (3). Pub. L. 100–426, § 205(2), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

''(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

''(A) $1,548; or

''(B) $4,644 divided by the number of dependent children; or

''(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

''(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection divided by the number of dependent children;

''(B) $1,860; or

''(C) $5,580 divided by the number of dependent children.''

Subsec. (d)(1). Pub. L. 100–426, § 205(3), substituted ''1.5 percent'' for ''1.25 percent'' in introductory provisions.

Subsec. (e). Pub. L. 100–426, § 205(4), substituted ''more than 50 percent nor less than 25 percent'' for ''more than 40 percent''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–426 effective after end of 60-day period beginning Sept. 9, 1988, with certain exceptions, see section 208 of Pub. L. 100–426, set out as a note under section 772 of this title.

## § 775. Refunds

(a) A Comptroller General separated from office before becoming entitled to receive an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted from pay or deposited as a contribution under section 772, plus 3 percent interest on the amount compounded every December 31.

(b) A Comptroller General making an election under section 773 of this title who is separated

from office before becoming entitled to an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted under section 773 of this title, plus 4 percent interest before January 1, 1948, and 3 percent interest after December 31, 1947, compounded every December 31 until the separation date.

(c) A lump-sum refund of the amounts deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, shall be paid under subsection (d) of this section if—

(1) a Comptroller General dies in office before completing 5 years of civilian service under section 774 of this title or after completing 5 years of civilian service but without a survivor entitled to an annuity under section 774(b) and (c) of this title; or

(2) if a retired Comptroller General dies without a survivor entitled to an annuity under section 774(b) and (c) of this title.

(d) If a Comptroller General or retired Comptroller General dies before a refund is made under this section, the refund shall be paid in the following order of precedence:

(1) to a beneficiary the Comptroller General or retired Comptroller General designated in writing if the designation was received by the Government Accountability Office before the death of the Comptroller General or retired Comptroller General.

(2) to a surviving spouse.

(3) to the children and to a descendant of a deceased child by representation.

(4) to the parents equally or, if only one surviving parent, to that survivor.

(5) to the executor or administrator of the estate of the Comptroller General or retired Comptroller General.

(6) to the next of kin that the General Counsel of the Government Accountability Office decides is entitled to the refund under the laws of the domicile of the Comptroller General or retired Comptroller General at the time of death.

(e) The General Counsel is not subject to section 771(1) and (2) of this title when making a decision about a surviving spouse or child under subsection (c) or (d) of this section.

(f) If the annuities of all individuals entitled to survivor annuities under this subchapter end before the amount of annuities paid equals the amount deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, the remainder shall be paid under subsection (d) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 905; 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)* |
|---|---|---|
| 775(a) ..... | 31:43(last par. 1st sentence). | June 10, 1921, ch. 18, 42 Stat. 20, § 303(last par.); added Oct. 25, 1978, Pub. L. 95–512, § 4(c), 92 Stat. 1801. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 775(b) ..... | 31:43b(i). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(i), (j)(less last 13 words before colon), (k); added July 13, 1959, Pub. L. 86–87, 73 Stat. 198. |
| 775(c)–(e) | 31:43(last par. last sentence). 31:43b(j)(less last 13 words before colon). | |
| 775(f) ..... | 31:43b(k). | |

In subsections (a) and (b), the word ''total'' is omitted as surplus.

In subsection (a), the word ''pay'' is substituted for ''salary'' for consistency in the revised title and with other titles of the United States Code. The words ''by him'' and ''to his annuity'' are omitted as surplus.

In subsection (b), the words ''who has elected to bring himself within the purview of'' are omitted as surplus. The word ''annuity'' is substituted for ''retirement pay'' for consistency in the revised title and with other titles of the Code.

In subsection (c), before clause (1), the words ''A lump-sum refund of the amounts deducted under sections 772 and 773 of this title'' are substituted for ''total amount deducted from his salary and retirement pay'' for clarity. The words ''under subsection (d) of this section'' are added because of the restatement. The words ''to the person or persons surviving at the date title to payment arises'' are omitted as surplus.

In subsection (d), the words before clause (1) are included for clarity. In clauses (2)–(4) and (6), the words ''of such Comptroller General or retired Comptroller General'' are omitted as surplus. In clause (5), the words ''duly appointed'' are omitted as surplus.

In subsection (e), the words ''of a Comptroller General or retired Comptroller General'' are omitted as surplus. The words ''is not subject to'' are substituted for ''shall be made . . . without regard to the definitions of these terms in'' to eliminate unnecessary words.

In subsection (f), the word ''individuals'' is substituted for ''persons'' for consistency. The word ''aggregate'' is omitted as surplus. The words ''under sections 772 and 773 of this title'' are substituted for ''total . . . from the salary and retirement pay of a Comptroller General or retired Comptroller General'' for clarity and consistency. The word ''under'' is substituted for ''in the order of precedence prescribed in'' to eliminate unnecessary words.

AMENDMENTS

2004—Subsec. (d)(1), (6). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

## § 776. Payment of survivor benefits

(a) An annuity under section 774 of this title accrues monthly and is paid monthly on the first business day of the month after the month in which an annuity accrues.

(b)(1) A surviving spouse's annuity ends when the spouse remarries before age 55 or dies.

(2) A dependent child's annuity ends when the child becomes 18 years of age (unless the child is then a student as described in section 771(1)(C) of this title), marries, or dies, whichever is earliest. However, if a child is not self-supporting because of a physical or mental disability, an annuity ends when the child recovers, marries, or dies.

(3) If a surviving spouse dies and a dependent child survives, the child's annuity is recomputed under section 774(c)(3) of this title.

(4) When a dependent child's annuity ends, the annuity of another dependent child is recomputed as if the child whose annuity has ended did not survive a Comptroller General or retired Comptroller General.

(c) An accrued annuity unpaid when the annuity of a survivor ends—

(1) for a reason except death, shall be paid to the survivor; and

(2) when a survivor dies, shall be paid in the following order of precedence:

(A) to the executor or administrator of the estate of the individual.

(B) if there is no executor or administrator, then after 30 days after the date of death, to an individual the General Counsel of the Government Accountability Office decides is legally entitled to the payment.

(d)(1) A payment under subsection (c)(2)(B) of this section or section 775(d) of this title is a bar to recovery by another individual.

(2) A benefit under this section and sections 773–775 of this title is not assignable or subject to legal process.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 906; Pub. L. 100–426, title II, § 206, Sept. 9, 1988, 102 Stat. 1601; 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)* |
|---|---|---|
| 776(a) ..... | 31:43b(m)(1st sentence). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(f), (j)(last 13 words before colon), (*l*), (m); added July 13, 1959, Pub. L. 86–87, 73 Stat. 198, 199. |
| 776(b) ..... | 31:43b(f). | |
| 776(c) ..... | 31:43b(*l*)(words before last comma). | |
| 776(d)(1) .. | 31:43b(j)(last 13 words before colon). 31:43b(*l*)(words after last comma). | |
| 776(d)(2) .. | 31:43b(m)(last sentence). | |

In subsection (a), the words ''due and'' and ''or other period'' are omitted as surplus.

In subsection (b)(2), the word ''dependent'' is added for clarity.

In subsections (b)(3) and (c), the words ''of a Comptroller General or retired Comptroller General'' are omitted as surplus.

In subsection (b)(3) and (4), the words ''and paid'' are omitted as surplus.

In subsection (c)(2)(A), the words ''duly appointed'' are omitted as surplus. The word ''individual'' is substituted for ''person'' for consistency.

In subsection (c)(2)(B), the words ''payment may be made'' and ''the expiration of . . . from'' are omitted as surplus. The words ''to the payment'' are substituted for ''thereto'' for clarity.

In subsection (d)(2), the words ''A benefit'' are substituted for ''None of the moneys mentioned'' to eliminate unnecessary words. The words ''either in law or equity'' and ''execution, levy, attachment, garnishment, or other'' are omitted as surplus.

AMENDMENTS

2004—Subsec. (c)(2)(B). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1988—Subsec. (b)(1). Pub. L. 100–426, § 206(1), inserted ''before age 55'' after ''remarries''.

Subsec. (b)(2). Pub. L. 100–426, § 206(2), inserted ''(unless the child is then a student as described in section 771(1)(C) of this title)'' after ''age''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–426 effective after end of 60-day period beginning Sept. 9, 1988, with certain exceptions, see section 208 of Pub. L. 100–426, set out as a note under section 772 of this title.

## § 777. Annuity increases

(a) An annuity payable under this subchapter shall be increased at the same time that, and by the same percent as the percentage by which, annuities are increased under section 8340(b) of title 5.

(b) An annuity under section 772 of this title may not be more than the basic pay of the Comptroller General. A surviving spouse's annuity may be increased under this section without regard to any limitation set forth in section 774(e) of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 906; Pub. L. 100–426, title II, § 207, Sept. 9, 1988, 102 Stat. 1601.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 777(a) ..... | 31:43c(a)(words before colon), (1). | June 10, 1921, ch. 18, 42 Stat. 20, § 320; added Oct. 25, 1978, Pub. L. 95–512, § 3, 92 Stat. 1799. |
| 777(b) ..... | 31:43c(a)(2). | |
| 777(c) ..... | 31:43c(a)(3), (b). | |

In subsection (a), before clause (1), the text of 31:43c(a)(words before colon) is omitted as surplus.

In subsection (b), the words ''in any year'' and ''commencing'' are omitted as surplus.

In subsection (c)(1), the words ''per centum'' and ''by the Comptroller General'' are omitted as surplus. The words ''Civil Service Commission'' (subsequently changed to ''Office of Personnel Management'' because of section 101 of Reorganization Plan No. 2 of 1978 (eff. Jan. 1, 1979, 92 Stat. 3783)) are omitted because of the restatement of section 8340(b) of title 5 by section 1702(a) of the Omnibus Budget Reconciliation Act of 1981.

In subsection (c)(2), the words ''by reason of the application of subsection (a) of this section'' and ''annual'' are omitted as surplus. The words ''basic pay'' are substituted for ''compensation'' for consistency with other titles of the United States Code.

AMENDMENTS

1988—Pub. L. 100–426 amended section generally. Prior to amendment, section read as follows:

''(a) The Comptroller General shall compute—

''(1) on January 1 of each year, or within a reasonable time after January 1, the percent change in the Consumer Price Index between June and December of the prior year; and

''(2) on July 1 of each year, or within a reasonable time after July 1, the percent change in the Index between June of the same year and December of the prior year.

''(b) If a percent change computed under subsection (a)(1) of this section indicates a rise in the Index, an annuity payable under this subchapter and beginning before March 2 shall increase on March 1 by the percent change computed under subsection (a)(1), adjusted to the nearest .1 percent. If a percent change computed under subsection (a)(2) of this section indicates a rise in the Index, an annuity payable under this subchapter and beginning before September 2 shall increase on September 1 by the percent change computed under subsection (a)(2), adjusted to the nearest .1 percent.

''(c)(1) An increase under this section may not be more than an increase prescribed under section 8340(b) of title 5.

''(2) An annuity under section 772 of this title may not be more than the basic pay of the Comptroller General.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–426 effective after end of 60-day period beginning Sept. 9, 1988, with certain exceptions, see section 208 of Pub. L. 100–426, set out as a note under section 772 of this title.

### § 778. Dependency and disability decisions

The General Counsel of the Government Accountability Office shall decide a question of dependency, disability, or dependency and disability under sections 773–776 of this title. A decision under this section is final.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 907; 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)* |
|---|---|---|
| 778 ..... | 31:43b(h). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(h); added July 13, 1959, Pub. L. 86–87, 73 Stat. 198. |

The words ''arising'' and ''and conclusive'' are omitted as surplus.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

### § 779. Use of appropriations

Annuities and refunds under this subchapter shall be paid by the Comptroller General from appropriations of the Government Accountability Office.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 907; 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)* |
|---|---|---|
| 779 ..... | 31:43(2d par. 3d sentence). | June 10, 1921, ch. 18, 42 Stat. 20, § 303(2d par. 3d sentence); added July 28, 1953, ch. 256, 67 Stat. 229. |
| | 31:43b(r). | June 10, 1921, ch. 18, 42 Stat. 20, § 319(r); added July 13, 1959, Pub. L. 86–87, 73 Stat. 200. |

The words ''of deposits'' in 31:43b(r) are omitted as surplus.

AMENDMENTS

2004—Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

## SUBCHAPTER VI—PROPERTY MANAGEMENT

### § 781. Authority over the General Accounting Office Building

(a) The Comptroller General shall have exclusive custody and control over the building located at 441 G Street, N.W., in the District of Columbia, that is generally known as the General Accounting Office Building,[1] including operation, maintenance, protection, alteration, repair, and assignment of space therein. Such custody and control shall also extend to any machinery, equipment, spare parts and tools located in and usable for the operation and maintenance of the General Accounting Office Building.[1] For the purposes of securing approval of any prospectus detailing proposed alterations of the General Accounting Office Building,[1] as required by section 3307 of title 40, the Comptroller General shall perform the functions assigned to the Administrator of General Services by that section.

(b) Upon request of the Comptroller General, the Administrator of General Services shall provide, to the extent resources are available, any necessary services for the protection of the property and persons in the General Accounting Office Building,[1] including the provision of special police, responding to and investigating incidents, and the monitoring of the perimeter security system. Such services may be provided with or without reimbursement as the Comptroller General and the Administrator may agree.

(c)(1) The Comptroller General is authorized to enter into agreements or contracts to acquire property or services on such terms and conditions and in such a manner as he deems necessary and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); except that the Comptroller General may not acquire real property unless specifically authorized by law. In exercising the authority granted by this section, the Comptroller General shall obtain full and open competition in accordance with the principles and purposes of the Competition in Contracting Act of 1984.

(2) To the extent that funds are otherwise available for obligation, agreements or contracts for utility services may be made for periods not exceeding 10 years.

(3) The Comptroller General may make advance, progress, and other payments which relate to agreements or contracts entered into under authority of this section, without regard to the provisions of section 3324(a) and (b) of this title.

(Added Pub. L. 100–545, § 1, Oct. 28, 1988, 102 Stat. 2727; amended Pub. L. 107–217, § 3(h)(1), Aug. 21, 2002, 116 Stat. 1299.)

REFERENCES IN TEXT

The Competition in Contracting Act of 1984, referred to in subsec. (c)(1), is title VII of Pub. L. 98–369, div. B, July 18, 1984, 98 Stat. 1175. For complete classification of this Act to the Code, see Short Title of 1984 Amendments note set out under section 251 of Title 41, Public Contracts, and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–217 substituted ''section 3307 of title 40'' for ''section 7 of the Public Buildings Act of 1959, as amended (40 U.S.C. 606)''.

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

### § 782. Leasing of space in the General Accounting Office Building

The Comptroller General is authorized to lease or otherwise provide space and services within

[1] See Change of Name note below.

the General Accounting Office Building[1] to persons, both public and private, or to any department, agency or instrumentality of the United States Government upon such terms and conditions as the Comptroller General deems necessary to protect the public interest. The Comptroller General shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the General Accounting Office Building.[1] Additionally, the Comptroller General may make available, on occasion, or may lease at such rates and on such other terms and conditions as the Comptroller General deems to be in the public interest, auditoriums, meeting rooms, and lobbies of the General Accounting Office Building[1] to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section 3306(a) of title 40). The Comptroller General will consult with the Administrator of General Services and will give priority to Federal agencies in filling available space within the General Accounting Office Building.[1] Payments for space or services may be made in advance or by way of reimbursement and shall be deposited to a special account and shall be available for expenditure for operation, maintenance, protection, alteration, or repair of the General Accounting Office Building[1] in such amounts as are specified in annual appropriation Acts without regard to fiscal year limitations.

(Added Pub. L. 100–545, §1, Oct. 28, 1988, 102 Stat. 2728; amended Pub. L. 103–272, §4(f)(1)(D), July 5, 1994, 108 Stat. 1362; Pub. L. 107–217, §3(h)(2), Aug. 21, 2002, 116 Stat. 1299.)

AMENDMENTS

2002—Pub. L. 107–217 substituted ''(as defined in section 3306(a) of title 40)'' for ''(as defined in section 105 of the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 612a))''.

1994—Pub. L. 103–272 substituted ''612a)).'' for ''612a).''

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

PAYMENTS OF REIMBURSEMENTS INCIDENT TO OPERATION OF GENERAL ACCOUNTING OFFICE BUILDING

Pub. L. 101–520, title II, Nov. 5, 1990, 104 Stat. 2275, as amended by Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814, provided in part that ''notwithstanding the provisions of section 782 of title 31, United States Code, hereinafter any payments of reimbursements received incident to the operation of the General Accounting Office Building shall be credited to the appropriation currently available to the Government Accountability Office and remain available until expended, and not more than $5,915,000 of such funds shall be available for use in fiscal year 1991''.

### § 783. Rules and regulations

(a) The Comptroller General is authorized to make all needful rules and regulations for the Government of the General Accounting Office Building,[1] and to annex to such rules and regulations such reasonable penalties, within the limits prescribed in subsection (b), as will ensure their enforcement. Such rules and regulations shall be posted and kept posted in a conspicuous place on such Federal property.

(b) Whoever shall violate any rule or regulation promulgated pursuant to subsection (a) shall be fined not more than $500 or imprisoned not more than 6 months, or both.

(Added Pub. L. 100–545, §1, Oct. 28, 1988, 102 Stat. 2728.)

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office. See section 8 of Pub. L. 108–271, set out as a note under section 702 of this title.

## CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

Sec.
901. Establishment of agency Chief Financial Officers.
902. Authority and functions of agency Chief Financial Officers.
903. Establishment of agency Deputy Chief Financial Officers.

### § 901. Establishment of agency Chief Financial Officers

(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

(1) for those agencies described in subsection (b)(1)—

(A) be appointed by the President, by and with the advice and consent of the Senate; or

(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;

(2) for those agencies described in subsection (b)(2)—

(A) be appointed by the head of the agency;

(B) be in the competitive service or the senior executive service; and

(C) be career appointees; and

(3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in financial management practices in large governmental or business entities.

(b)(1) The agencies referred to in subsection (a)(1) are the following:

(A) The Department of Agriculture.

(B) The Department of Commerce.

(C) The Department of Defense.

(D) The Department of Education.

(E) The Department of Energy.

(F) The Department of Health and Human Services.

(G) The Department of Homeland Security.

(H) The Department of Housing and Urban Development.

(I) The Department of the Interior.

(J) The Department of Justice.

(K) The Department of Labor.

(L) The Department of State.

(M) The Department of Transportation.

[1] See Change of Name note below.

[1] See Change of Name note below.

(N) The Department of the Treasury.
(O) The Department of Veterans Affairs.
(P) The Environmental Protection Agency.
(Q) The National Aeronautics and Space Administration.

(2) The agencies referred to in subsection (a)(2) are the following:
(A) The Agency for International Development.
(B) The General Services Administration.
(C) The National Science Foundation.
(D) The Nuclear Regulatory Commission.
(E) The Office of Personnel Management.
(F) The Small Business Administration.
(G) The Social Security Administration.

(c)(1) There shall be within the Executive Office of the President a Chief Financial Officer, who shall be designated or appointed by the President from among individuals meeting the standards described in subsection (a)(3). The position of Chief Financial Officer established under this paragraph may be so established in any Office (including the Office of Administration) of the Executive Office of the President.

(2) The Chief Financial Officer designated or appointed under this subsection shall, to the extent that the President determines appropriate and in the interest of the United States, have the same authority and perform the same functions as apply in the case of a Chief Financial Officer of an agency described in subsection (b).

(3) The President shall submit to Congress notification with respect to any provision of section 902 that the President determines shall not apply to a Chief Financial Officer designated or appointed under this subsection.

(4) The President may designate an employee of the Executive Office of the President (other than the Chief Financial Officer), who shall be deemed ''the head of the agency'' for purposes of carrying out section 902, with respect to the Executive Office of the President.

(Added Pub. L. 101–576, title II, §205(a), Nov. 15, 1990, 104 Stat. 2842; amended Pub. L. 103–296, title I, §108(j)(1), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 106–58, title VI, §638(a), Sept. 29, 1999, 113 Stat. 475; Pub. L. 108–330, §3(a), (d)(2), Oct. 16, 2004, 118 Stat. 1276, 1277.)

AMENDMENTS

2004—Subsec. (b)(1)(G) to (Q). Pub. L. 108–330, §3(a), added subpar. (G) and redesignated former subpars. (G) to (P) as (H) to (Q), respectively.

Subsec. (b)(2)(B) to (H). Pub. L. 108–330, §3(d)(2), redesignated subpars. (C) to (H) as (B) to (G), respectively, and struck out former subpar. (B) which read as follows: ''The Federal Emergency Management Agency.''

1999—Subsec. (c). Pub. L. 106–58 added subsec. (c).

1994—Subsec. (b)(2)(H). Pub. L. 103–296 added subpar. (H).

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–58 effective at noon on Jan. 20, 2001, see section 638(h) of Pub. L. 106–58, set out as a note under section 503 of this title.

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.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.

CHIEF FINANCIAL OFFICER OF DEPARTMENT OF HOMELAND SECURITY

Pub. L. 108–330, §3(b), (c), Oct. 16, 2004, 118 Stat. 1276, provided that:

''(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) [amending this section] by not later than 180 days after the date of the enactment of this Act [Oct. 16, 2004].

''(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—An individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment of this Act, or another person who is appointed to replace such an individual in an acting capacity after the enactment of this Act, may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).''

CHIEF FINANCIAL OFFICER WITHIN EXECUTIVE OFFICE OF THE PRESIDENT

Pub. L. 106–58, title VI, §638(b)–(e), Sept. 29, 1999, 113 Stat. 475, provided that:

''(b) PLAN FOR IMPLEMENTATION.—Not later than 90 days after the effective date of this section [noon on Jan. 20, 2001], the President shall communicate in writing, to the Chairmen of the Committees on Appropriations, the Chairman of the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives, and the Chairman of the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate, a plan for implementation of the provisions of, and amendments made by, this section [amending this section and sections 503 and 1105 of this title].

''(c) DEADLINE FOR APPOINTMENT.—The Chief Financial Officer designated or appointed under section 901(c) of title 31, United States Code (as added by subsection (a)), shall be so designated or appointed not later than 180 days after the effective date of this section [noon on Jan. 20, 2001].

''(d) PAY.—The Chief Financial Officer designated or appointed under such section shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(e) TRANSFER OF FUNCTIONS.—(1) The President may transfer such offices, functions, powers, or duties thereof, as the President determines are properly related to the functions of the Chief Financial Officer under section 901(c) of title 31, United States Code (as added by subsection (a)).

''(2) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office the functions, powers, or

duties of which are transferred under paragraph (1) shall also be so transferred.''

CHIEF FINANCIAL OFFICERS OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Section 205(c)(1) of Pub. L. 101–576 provided that: ''The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development may each designate as the agency Chief Financial Officer of that department for purposes of section 901 of title 31, United States Code, as amended by this section, the officer designated, respectively, under section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as in effect before the effective date of this Act [Nov. 15, 1990].''

TRANSFER OF FUNCTIONS AND PERSONNEL OF AGENCY CHIEF FINANCIAL OFFICERS

Section 206 of Pub. L. 101–576 provided that:

''(a) AGENCY REVIEWS OF FINANCIAL MANAGEMENT ACTIVITIES.—Not later than 120 days after the date of the enactment of this Act [Nov. 15, 1990], the Director of the Office of Management and Budget shall require each agency listed in subsection (b) of section 901 of title 31, United States Code, as amended by this Act, to conduct a review of its financial management activities for the purpose of consolidating its accounting, budgeting, and other financial management activities under the agency Chief Financial Officer appointed under subsection (a) of that section for the agency.

''(b) REORGANIZATION PROPOSAL.—Not later than 120 days after the issuance of requirements under subsection (a) and subject to all laws vesting functions in particular officers and employees of the United States, the head of each agency shall submit to the Director of the Office of Management and Budget a proposal for reorganizing the agency for the purposes of this Act [see Short Title of 1990 Amendment note set out under section 501 of this title]. Such proposal shall include—

''(1) a description of all functions, powers, duties, personnel, property, or records which the agency Chief Financial Officer is proposed to have authority over, including those relating to functions that are not related to financial management activities; and

''(2) a detailed outline of the administrative structure of the office of the agency Chief Financial Officer, including a description of the responsibility and authority of financial management personnel and resources in agencies or other subdivisions as appropriate to that agency.

''(c) REVIEW AND APPROVAL OF PROPOSAL.—Not later than 60 days after receiving a proposal from the head of an agency under subsection (b), the Director of the Office of Management and Budget shall approve or disapprove the proposal and notify the head of the agency of that approval or disapproval. The Director shall approve each proposal which establishes an agency Chief Financial Officer in conformance with section 901 of title 31, United States Code, as added by this Act, and which establishes a financial management structure reasonably tailored to the functions of the agency. Upon approving or disapproving a proposal of an agency under this section, the Director shall transmit to the head of the agency a written notice of that approval or disapproval.

''(d) IMPLEMENTATION OF PROPOSAL.—Upon receiving written notice of approval of a proposal under this section from the Director of the Office of Management and Budget, the head of an agency shall implement that proposal.''

CHIEF FINANCIAL OFFICERS COUNCIL

Section 302 of Pub. L. 101–576 provided that:

''(a) ESTABLISHMENT.—There is established a Chief Financial Officers Council, consisting of—

''(1) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the council;

''(2) the Controller of the Office of Federal Financial Management of the Office of Management and Budget;

''(3) the Fiscal Assistant Secretary of Treasury; and

''(4) each of the agency Chief Financial Officers appointed under section 901 of title 31, United States Code, as amended by this Act.

''(b) FUNCTIONS.—The Chief Financial Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as consolidation and modernization of financial systems, improved quality of financial information, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matter.''

## § 902. Authority and functions of agency Chief Financial Officers

(a) An agency Chief Financial Officer shall—

(1) report directly to the head of the agency regarding financial management matters;

(2) oversee all financial management activities relating to the programs and operations of the agency;

(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—

(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;

(B) complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;

(C) complies with any other requirements applicable to such systems; and

(D) provides for—

(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;

(ii) the development and reporting of cost information;

(iii) the integration of accounting and budgeting information; and

(iv) the systematic measurement of performance;

(4) make recommendations to the head of the agency regarding the selection of the Deputy Chief Financial Officer of the agency;

(5) direct, manage, and provide policy guidance and oversight of agency financial management personnel, activities, and operations, including—

(A) the preparation and annual revision of an agency plan to—

(i) implement the 5-year financial management plan prepared by the Director of the Office of Management and Budget under section 3512(a)(3) of this title; and

(ii) comply with the requirements established under sections 3515 and subsections (e) and (f) of section 3521 of this title;

(B) the development of agency financial management budgets;

(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;

(D) the approval and management of agency financial management systems design or enhancement projects;

(E) the implementation of agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control;

(6) prepare and transmit, by not later than 60 days after the submission of the audit report required by section 3521(f) of this title, an annual report to the agency head and the Director of the Office of Management and Budget, which shall include—

(A) a description and analysis of the status of financial management of the agency;

(B) the annual financial statements prepared under section 3515 of this title;

(C) the audit report transmitted to the head of the agency under section 3521(f) of this title;

(D) a summary of the 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); and

(E) other information the head of the agency considers appropriate to fully inform the President and the Congress concerning the financial management of the agency;

(7) monitor the financial execution of the budget of the agency in relation to actual expenditures, and prepare and submit to the head of the agency timely performance reports; and

(8) review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

(b)(1) In addition to the authority otherwise provided by this section, each agency Chief Financial Officer—

(A) subject to paragraph (2), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the agency or which are available to the agency, and which relate to programs and operations with respect to which that agency Chief Financial Officer has responsibilities under this section;

(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental entity; and

(C) to the extent and in such amounts as may be provided in advance by appropriations Acts, may—

(i) enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

(ii) make such payments as may be necessary to carry out the provisions of this section.

(2) Except as provided in paragraph (1)(B), this subsection does not provide to an agency Chief Financial Officer any access greater than permitted under any other law to records, reports, audits, reviews, documents, papers, recommendations, or other material of any Office of Inspector General established under the Inspector General Act of 1978 (5 U.S.C. App.).

(Added Pub. L. 101–576, title II, §205(a), Nov. 15, 1990, 104 Stat. 2843.)

REFERENCES IN TEXT

The Federal Managers' Financial Integrity Act of 1982, referred to in subsec. (a)(6)(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 section 3512 of this title. Provisions relating to reports on internal accounting and administrative control systems are restated in section 3512(d)(2) and (3) of this title.

The Inspector General Act of 1978, referred to in subsec. (b)(2), 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.

### §903. Establishment of agency Deputy Chief Financial Officers

(a) There shall be within each agency described in section 901(b) an agency Deputy Chief Financial Officer, who shall report directly to the agency Chief Financial Officer on financial management matters. The position of agency Deputy Chief Financial Officer shall be a career reserved position in the Senior Executive Service.

(b) Consistent with qualification standards developed by, and in consultation with, the agency Chief Financial Officer and the Director of the Office of Management and Budget, the head of each agency shall appoint as Deputy Chief Financial Officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management at large governmental entities.

(Added Pub. L. 101–576, title II, §205(a), Nov. 15, 1990, 104 Stat. 2845.)

REFERENCES IN TEXT

Senior Executive Service, referred to in subsec. (a), see section 5382 of Title 5, Government Organization and Employees.

## SUBTITLE II—THE BUDGET PROCESS


| Chap. | | Sec. |
|---|---|---|
| **11.** | **The Budget and Fiscal, Budget, and Program Information** | **1101** |
| **13.** | **Appropriations** | **1301** |
| **15.** | **Appropriation Accounting** | **1501** |


### CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION


| Sec. | |
|---|---|
| 1101. | Definitions. |
| 1102. | Fiscal year. |
| 1103. | Budget ceiling. |
| 1104. | Budget and appropriations authority of the President. |
| 1105. | Budget contents and submission to Congress. |
| 1106. | Supplemental budget estimates and changes. |

Sec.
1107. Deficiency and supplemental appropriations.
1108. Preparation and submission of appropriations requests to the President.
1109. Current programs and activities estimates.
1110. Year-ahead requests for authorizing legislation.
1111. Improving economy and efficiency.
1112. Fiscal, budget, and program information.
1113. Congressional information.
[1114. Repealed.]
1115. Performance plans.
1116. Program performance reports.
1117. Exemptions.[1]
1118. Pilot projects for performance goals.
1119. Pilot projects for performance budgeting.

AMENDMENTS

1994—Pub. L. 103–355, title II, § 2454(c)(3)(B), Oct. 13, 1994, 108 Stat. 3326, struck out item 1114 ''Budget information on consulting services''.

1993—Pub. L. 103–62, § 11(b)(1), Aug. 3, 1993, 107 Stat. 295, added items 1115 to 1119.

## § 1101. Definitions

In this chapter—

(1) ''agency'' includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) ''appropriations'' means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 907.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1101(1) ..... | 31:2(1st–4th pars.). | June 10, 1921, ch. 18, § 2(1st–5th pars.), 42 Stat. 20; Apr. 3, 1939, ch. 36, § 201, 53 Stat. 565; July 31, 1953, ch. 302, § 101(1st proviso in par. under heading ''Bureau of the Budget''), 67 Stat. 299. |
| 1101(2) ..... | 31:2(last par.). | June 10, 1921, ch. 18, 42 Stat. 20, § 2(last par.); added Sept. 12, 1950, ch. 946, § 101, 64 Stat. 832. |

In the section, a reference to 31:71 and 471 is omitted because the definitions in the section are not used in 31:71 and 471.

In clause (1), ''agency'' (which is defined for purposes of this title in section 101 to mean a department, agency, or instrumentality of the United States) is coextensive with and substituted for the term ''department or establishment'' which was defined in 31:2 as in part meaning ''any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including any independent regulatory commission or board''. This definition merely restates and continues, and does not in any way change or expand, the definition in 31:2. Under that definition, entities such as the Tennessee Valley Authority that have been interpreted to be outside the purview of the definition will continue to be outside the purview in the same manner and to the same extent that they were under 31:2. The words ''includes the District of Columbia government'' are used because of existing law but the inclusion of these words is not to be interpreted as construing the extent to which the District of Columbia Self-Government and Governmental Reorganizational Act (Pub. L. 93–198, 87 Stat. 774) supersedes the provisions codified in this title. The words ''of the United States'' are omitted as surplus. The text of 31:2(2d–4th pars.) is omitted as unnecessary because of the restatement. The text of section 2(3d par.) of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 20), is omitted as obsolete because of section 501 of the revised title.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–62, § 1, Aug. 3, 1993, 107 Stat. 285, provided that: ''This Act [enacting sections 1115 to 1119, 9703, and 9704 of this title, section 306 of Title 5, Government Organization and Employees, and sections 2801 to 2805 of Title 39, Postal Service, amending section 1105 of this title, and enacting provisions set out as notes under section 1115 of this title] may be cited as the 'Government Performance and Results Act of 1993'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–501, title II, § 201, Oct. 19, 1984, 98 Stat. 2324, provided that: ''This title [amending section 1105 of this title and enacting provisions set out as a note under section 1105 of this title] may be cited as the 'Federal Capital Investment Program Information Act of 1984'.''

EXECUTIVE ORDER NO. 13037

Ex. Ord. No. 13037, Mar. 3, 1997, 62 F.R. 10185, as amended by Ex. Ord. No. 13066, Oct. 29, 1997, 62 F.R. 59273; Ex. Ord. No. 13108, Dec. 11, 1998, 63 F.R. 69175, which established the Commission to Study Capital Budgeting, was revoked by Ex. Ord. No. 13138, § 3(d), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

## § 1102. Fiscal year

The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year. Accounts of receipts and expenditures required under law to be published each year shall be published for the fiscal year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 908.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1102 ..... | 31:1020. | R.S. § 237; Oct. 1, 1890, ch. 1256, § 9, 26 Stat. 646; restated July 12, 1974, Pub. L. 93–344, § 501, 88 Stat. 321. |

The words ''in all matters of accounts, receipts, expenditures, estimates, and appropriations'' are omitted as being included in ''fiscal''. The word ''prepared'' is omitted as being included in ''published''. The words ''as established by subsection (a) of this section'' are omitted as unnecessary because of the restatement. The text of 31:1020(a)(1) and the words ''beginning on October 1, 1976'' are omitted as executed.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

Pub. L. 94–274, Apr. 21, 1976, 90 Stat. 383, provided for an orderly transition to the new Oct. 1 to Sept. 30 fiscal year for particular acts by specifying how the period of July 1, 1976, through Sept. 30, 1976, was to be treated for fiscal year purposes.

## § 1103. Budget ceiling

Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may be not more than the receipts of the Government for that year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 908.)

[1] So in original. Does not conform to section catchline.

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1103 ..... | 31:27. | Oct. 10, 1978, Pub. L. 95–435, §7, 92 Stat. 1053; restated Oct. 7, 1980, Pub. L. 96–389, §3, 94 Stat. 1553. |

The word ''total'' is omitted as surplus. The words ''for a fiscal year'' are substituted for ''beginning with Fiscal Year 1981'' because of the restatement and to eliminate executed words. The words ''for that year'' are added because of the restatement.

## §1104. Budget and appropriations authority of the President

(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of both Houses of Congress. This subsection does not limit the authority of a committee of Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress. Committees of the House of Representatives and Senate shall receive prompt notification of all such changes.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 908; Pub. L. 99–177, title II, §224, Dec. 12, 1985, 99 Stat. 1060.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1104(a) ..... | 31:16(last sentence related to preparation of budgets and appropriations). | June 10, 1921, ch. 18, §207(last sentence related to preparation of budgets and appropriations), 42 Stat. 22; restated Sept. 12, 1950, ch. 946, §102(e), 64 Stat. 833; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085. |
| | 31:623. | June 23, 1913, ch. 3, §3, 38 Stat. 75; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, §1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085. |
| 1104(b) ..... | 31:581. | June 10, 1921, ch. 18, §204, 42 Stat. 21; restated Sept. 12, 1950, ch. 946, §102(c), 64 Stat. 833. |
| 1104(c) ..... | 31:11d. | July 12, 1974, Pub. L. 93–344, §802, 88 Stat. 330. |
| | 31:581a. | June 10, 1921, ch. 18, §205, 42 Stat. 21; restated Sept. 12, 1950, ch. 946, §102(d), 64 Stat. 833. |
| 1104(d) ..... | 31:18b. | Sept. 12, 1950, ch. 946, §103, 64 Stat. 834; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085. |
| | 44:3503(note). | Dec. 11, 1980, Pub. L. 96–511, §3(a), 94 Stat. 2825. |
| 1104(e) ..... | 31:21. | June 10, 1921, ch. 18, §213, 42 Stat. 23; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, §1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085. |

In the section, the word ''President'' is substituted for ''Office'' in 31:16(last sentence), ''President, through the Director of the Office of Management and Budget'' in 31:18b, ''President and the Director of the Office of Management and Budget'' in 44:3503(note), and ''Office of Management and Budget'' in 31:21 and 623, 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.

In subsection (a), the words ''under such rules and regulations as the President may prescribe'' in 31:16(last sentence) are omitted as unnecessary because of section 101 of Reorganization Plan No. 2 of 1970. The words ''use uniform terms in stating'' are substituted for ''make uniform the language commonly used in expressing'' in 31:623 for consistency. The words ''eliminate from all estimates unnecessary words'' are omitted as unnecessary because of the authority of the President under this subsection to prepare the budget. The text of section 3(words before semicolon) in the Act of June 23, 1913 (ch. 13, 38 Stat. 75) is omitted as superseded by 31:ch. 1 and 31:581.

In subsection (b), the word ''arrangement'' is omitted as being included in ''order''. The word ''information'' is substituted for ''notes and other data'', and the word ''submitted'' is substituted for ''transmitted'', for consistency. The words ''The President shall include'' are substituted for ''shall be accompanied by'' because of the authority of the President under subsection (a) to prepare the budget. The words ''proposed appropriations'' are substituted for ''proposed supplemental or deficiency appropriations'' because of the restatement. The word ''personnel'' is substituted for ''personal services'' for clarity. The word ''way'' is substituted for ''manner and form'' for consistency. The words ''either generally or in specific cases'' are omitted as surplus. The word ''request'' is substituted for ''request and receive'' to eliminate unnecessary words. The words ''it prescribes'' are substituted for ''as they may desire in consideration of and action upon budget estimates'' to eliminate unnecessary words.

In subsection (c), the words ''President makes'' are substituted for ''is made'' in 31:581a as being more precise. The word ''information'' is substituted for ''explanatory notes and tables'' for consistency in the revised title. The words ''to Congress'', ''as may be nec-

essary'', and ''various'' are omitted as surplus. The words ''The President may change'' are substituted for ''Any change . . . shall be made only'' in 31:11d because the President prepares and submits the budget under 31:11. The word ''budget'' is substituted for ''Budget of the United States Government transmitted pursuant to section 11 of this title'' to eliminate unnecessary words and for consistency in the chapter.

In subsection (d), the word ''gathering'' in 31:18b is omitted as being included in ''compilation''. The text of 31:18b(last sentence) is omitted as unnecessary because of the restatement of the source provisions in subsection (e). The words ''carry out . . . through'' are substituted for ''delegate to'' in 44:3503(note) for consistency.

In subsection (e), the word ''provide'' is substituted for ''furnish'' for consistency. The words ''required by the President in carrying out this chapter'' are substituted for ''as the Office may from time to time require'' because of section 101 of Reorganization Plan No. 2 of 1970 and to provide comparable limiting language on when information may be required. The words ''the director and the assistant director, or any employee of the Office when duly authorized'' are omitted because of 3:301. The word ''inspect'' is substituted for ''examine'' for consistency in the revised title. The word ''records'' is substituted for ''books, documents, papers, or records'' for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

1985—Subsec. (c). Pub. L. 99–177 inserted provisions relating to notice to committees of House of Representatives and Senate.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–177 effective Dec. 12, 1985, and applicable with respect to fiscal years beginning after Sept. 30, 1985, see section 275(a)(1) of Pub. L. 99–177, set out as an Effective and Termination Dates note under section 900 of Title 2, The Congress.

EX. ORD. NO. 10253. PROVISIONS FOR IMPROVEMENT OF WORK OF FEDERAL EXECUTIVE AGENCIES WITH RESPECT TO STATISTICAL INFORMATION

Ex. Ord. No. 10253, June 11, 1951, 16 F.R. 5605, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931; Ex. Ord. No. 12318, Aug. 12, 1981, 46 F.R. 42833, provided:

SECTION 1. The Director of the Office of Management and Budget (hereinafter referred to as the Director) shall develop programs, and issue regulations and orders, for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the various agencies in the executive branch of the Federal Government.

SEC. 2. In order to carry out the provisions of Section 1 of this order, the Director shall maintain a continuing study for the improvement of the statistical work of the agencies in the executive branch of the Federal Government with a view to obtaining the maximum benefit from the funds and facilities available for such work, giving due consideration to the constantly changing character of the various needs for statistical information both within and without the Government and, where the statistical work is primarily concerned with operating programs, giving due consideration to administrative needs, statutory requirements, and the needs involved in the development of administrative and legislative recommendations. The Director, either upon his own initiative or upon the request of any such agency, shall (a) provide for the interchange of information calculated to improve statistical work, (b) make appropriate arrangements for improving statistical work involving relationships between two or more agencies, and (c) assist the agencies, by other means, to improve their statistical work.

SEC. 3. The following shall be included among the objectives sought in carrying out the provisions of Section 1 hereof:

(a) To achieve an adequate program of statistical work in the agencies of the executive branch, in relation to over-all needs for statistical information, including the filling of gaps and overcoming of weaknesses in presently available statistical information.

(b) To achieve the most effective use of resources available for statistical work by the agencies, in relation to over-all needs.

(c) To minimize the burden upon those furnishing statistical data needed by the various Federal agencies.

(d) To improve the reliability and timeliness of statistical information.

(e) To achieve maximum comparability among the several statistical series and studies.

(f) To improve the presentation of statistical information and of explanations regarding the sources and reliability of such information, and regarding the limitations on the uses that can appropriately be made of it.

SEC. 4. Regulations and orders issued pursuant to Section 1 hereof shall be signed by the Director. When so signed, such regulations and orders shall require no further approval and shall be adhered to by all agencies in the executive branch. Any such regulation or order may pertain to a single agency, a group of agencies, or all agencies in the executive branch.

SEC. 5. In the development of programs and the preparation of regulations and orders for issuance pursuant to Section 1 hereof, the Director shall consult Federal agencies whose activities will be substantially affected, and may consult non-Federal groups to the extent he finds it necessary to carry out the purposes of this order.

SEC. 6. The authority outlined in this order is in addition to and not in substitution for the existing authority of the Director, or of the Office of Management and Budget, with respect to statistical and reporting activities. To the extent, however, that this order conflicts with any previous Executive order affecting statistical or reporting activities, the provisions of this order shall control.

SEC. 7. As required by Section 3(a) of the Paperwork Reduction Act of 1980 (94 Stat. 2825; 44 U.S.C. 3503 note), the Director shall redelegate to the Administrator for the Office of Information and Regulatory Affairs, Office of Management and Budget, all functions, authority, and responsibility under Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) [31 U.S.C. 1104(d)] which have been vested in the Director by this Order.

SEC. 8. [Revoked by Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833.]

## § 1105. Budget contents and submission to Congress

(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.

(4) a reconciliation of the summary information on expenditures with proposed appropriations.

(5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the

fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.

(8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for that year.

(15) a separate statement on each of the items referred to in section 301(a)(1)–(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)–(5)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3)) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.

(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.

(27) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.

(28) beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.

(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

(30) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.

(31) a separate statement of the amount of appropriations requested for the Chief Finan-

cial Officer in the Executive Office of the President.

(32) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(33)[1] a separate appropriation account for appropriations for the Council of the Inspectors General on Integrity and Efficiency, and, included in that account, a separate statement of the aggregate amount of appropriations requested for each academy maintained by the Council of the Inspectors General on Integrity and Efficiency.

(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses.

(33)[2] (A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

(II) an estimate of the current service levels of homeland security spending;

(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 ''Annual Report to Congress on Combatting Terrorism'', the term ''homeland security'' refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.

(35) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—

(A) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 using methodology required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and section 123 of the Emergency Economic Stabilization Act of 2008;

(B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008;

(C) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;

(D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008; and

(E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and esti-

[1] So in original. Another par. (33) is set out after par. (34).

[2] So in original. Another par. (33) is set out preceding par. (34).

mated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military capital investment programs. In addition, the analysis under this paragraph shall contain—

(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

(i) economic assumptions;

(ii) engineering standards;

(iii) estimates of spending for operation and maintenance;

(iv) estimates of expenditures for similar investments by State and local governments; and

(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

(A) roadways or bridges,

(B) airports or airway facilities,

(C) mass transportation systems,

(D) wastewater treatment or related facilities,

(E) water resources projects,

(F) hospitals,

(G) resource recovery facilities,

(H) public buildings,

(I) space or communications facilities,

(J) railroads, and

(K) federally assisted housing.

(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

(5) For purposes of this subsection—

(A) the term ''construction'' includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(B) the term ''acquisition'' includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

(C) the term ''rehabilitation'' includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.

(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

(2)(A) In paragraph (1), except as provided in subparagraph (B), the term ''advisory and assistance services'' means the following services when provided by nongovernmental sources:

(i) Management and professional support services.

(ii) Studies, analyses, and evaluations.

(iii) Engineering and technical services.

(B) In paragraph (1), the term ''advisory and assistance services'' does not include the following services:

(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

(ii) Architectural and engineering services, as defined in section 1102 of title 40.

(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.

(h)(1) If there is a medicare funding warning under section 801(a)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made in a year, the President shall submit to Congress, within the 15-day period beginning on the date of the budget submission to Congress under subsection (a) for the succeeding year, proposed legislation to respond to such warning.

(2) Paragraph (1) does not apply if, during the year in which the warning is made, legislation is enacted which eliminates excess general revenue medicare funding (as defined in section 801(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) for the 7-fiscal-year reporting period, as certified by the Board of Trustees of each medicare trust fund (as defined in section 801(c)(5) of such Act) not later than 30 days after the date of the enactment of such legislation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 908; Pub. L. 97–452, § 1(2), Jan. 12, 1983, 96 Stat. 2467; Pub. L. 98–501, title II, § 203, Oct. 19, 1984, 98 Stat. 2324; Pub. L. 99–177, title II, § 241, Dec. 12, 1985, 99 Stat. 1063; Pub. L. 100–119, title I, § 106(f), Sept. 29, 1987, 101 Stat. 781; Pub. L. 100–418, title V, § 5301, Aug. 23, 1988, 102 Stat. 1462; Pub. L. 100–504, title I, § 108, Oct. 18, 1988, 102 Stat. 2529; Pub. L. 100–690, title I, § 1006, Nov. 18, 1988, 102 Stat. 4187; Pub. L. 101–508, title XIII, § 13112(c), Nov. 5, 1990, 104 Stat. 1388–608; Pub. L. 101–576, title II, § 203(b), Nov. 15, 1990, 104 Stat. 2841; Pub. L. 103–62, § 4(a), Aug. 3, 1993, 107 Stat. 286; Pub. L. 103–272, § 4(f)(1)(E), July 5, 1994, 108 Stat. 1362; Pub. L. 103–322, title XXXI, § 310001(e), Sept. 13, 1994, 108 Stat. 2103; Pub. L. 103–355, title II, § 2454(a), Oct. 13, 1994, 108 Stat. 3326; Pub. L. 104–287, § 4(1), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105–33, title X, § 10209(b), Aug. 5, 1997, 111 Stat. 711; Pub. L. 105–277, div. C, title VII, § 713(c), Oct. 21, 1998, 112 Stat. 2681–693; Pub. L. 106–58, title VI, § 638(f), Sept. 29, 1999, 113 Stat. 475; Pub. L. 106–422, § 2(c), Nov. 1, 2000, 114 Stat. 1874; Pub. L. 107–189, § 4(a), June 14, 2002, 116 Stat. 699; Pub. L. 107–217, § 3(h)(3), Aug. 21, 2002, 116 Stat. 1299; Pub. L. 107–296, title VIII, § 889(a), Nov. 25, 2002, 116 Stat. 2250; Pub. L. 108–173, title VIII, § 802(a), Dec. 8, 2003, 117 Stat. 2360; Pub. L. 108–178, § 4(f)(1), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 110–343, div. A, title II, § 203(a), Oct. 3, 2008, 122 Stat. 3801; Pub. L. 110–409, § 7(d)(2), Oct. 14, 2008, 122 Stat. 4313.)

TERMINATION OF SUBSECTION (f)

*Subsection (f) of this section expired Sept. 30, 2002, pursuant to section 275(b) of Pub. L. 99–177, as amended. See 1985 Amendment note and Effective and Termination Dates of 1985 Amendment note below.*

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1105(a)(1)–(14). | 31:11(a)(less (5)(words after 2d comma)). | June 10, 1921, ch. 18, § 201(a), 42 Stat. 20; restated Sept. 12, 1950, ch. 946, § 102(a), 64 Stat. 832; Aug. 1, 1956, ch. 814, § 1(a), 70 Stat. 782; Oct. 26, 1970, Pub. L. 91–510, § 221(a), 84 Stat. 1169; July 12, 1974, Pub. L. 93–344, §§ 603, 604, 88 Stat. 324. |
| | 31:19. | June 10, 1921, ch. 18, § 211, 42 Stat. 22; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| 1105(a)(15) | 31:11(d). | June 10, 1921, ch. 18, 42 Stat. 20, § 201(d)–(f), (g)(last sentence)–(i)(1st sentence); added July 12, 1974, Pub. L. 93–344, § 601, 88 Stat. 323. |
| 1105(a)(16) | 31:11(e). | |
| 1105(a)(17) | 31:11(h). | |
| 1105(a)(18)–(20). | 31:11(f). | |
| 1105(a)(21) | 31:25 | Oct. 18, 1962, Pub. L. 87–843, § 304(1st par.), 76 Stat. 1097; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085; Sept. 17, 1978, Pub. L. 95–367, § 5(g)(2), 92 Stat. 603. |
| 1105(a)(22) | 31:11(i)(1st sentence). | |
| 1105(a)(23) | 31:11(note). | Nov. 9, 1977, Pub. L. 95–164, § 305, 91 Stat. 1322. |
| 1105(a)(24) | 31:859. | Dec. 6, 1945, ch. 557, § 204, 59 Stat. 601. |
| 1105(b) ..... | 28:605(last par.). 31:11(a)(5)(words after 2d comma). | |
| 1105(c) ..... | 31:13. | June 10, 1921, ch. 18, § 202, 42 Stat. 21. |
| 1105(d) ..... | 31:11(g)(last sentence). | |

In the section, the word ''current'' is substituted for ''in progress'', and the word ''prior'' is substituted for ''last completed'', for consistency in the revised title.

In subsection (a), before clause (1), the text of 31:19 is omitted as superseded by the broader authority of 31:11(a)(5). The words ''for the following fiscal year'' are added for clarity. The words ''summary and supporting information'' are substituted for ''summary data and text, and supporting detail'' in the introductory matter of 31:11(a) for consistency. The words ''in such form and detail as the President may determine'' are omitted as unnecessary because of the authority of the President under section 1104(a) of the revised title to prepare the budget. The words ''The President shall . . . in each budget the following'' are substituted for ''The Budget transmitted pursuant to subsection (a) of this section for each fiscal year shall'' in 31:11(d)–(f), (h), and (i) because of the restatement. The word ''President'' is substituted for ''Office of Management and Budget'' in 31:25 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. The words ''in connection with the budget presentation for fiscal year 1964 and each succeeding year thereafter'' are omitted as executed.

In subsection (a)(1), the words ''information on'' are added for clarity.

In subsection (a)(2), the word ''Government'' is added for clarity.

In subsection (a)(3), the word ''information'' is substituted for ''data'' for consistency.

In subsection (a)(5) and (6), the words ''fiscal year for which the budget is submitted'' are substituted for ''ensuing fiscal year'' the first time they appear for clarity. The words ''the 4 fiscal years after that year'' are substituted for ''projections for the four fiscal years immediately following the ensuing fiscal year'' to eliminate unnecessary words.

In subsection (a)(6), the words ''proposals . . . to increase revenues'' are substituted for ''revenue proposals'' for consistency in the revised title.

In subsection (a)(7), the word ''actual'' is omitted as surplus.

In subsection (a)(8), the words ''appropriations and'' are substituted for ''actual or'' for clarity.

In subsection (a)(9), the words ''fiscal year for which the budget is submitted'' are substituted for ''ensuing fiscal year'' for clarity.

In subsection (a)(10), the words ''bonded and other'' are omitted as surplus.

In subsection (a)(11), the words ''information the President decides'' are substituted for ''statements and data as in his opinion'' for clarity and consistency. The word ''desirable'' is substituted for ''necessary or desirable'' and the words ''to explain'' are substituted for ''in order to make known'', to eliminate unnecessary words.

In subsection (a)(12), before subclause (A), the word ''legislation'' is substituted for ''new or additional legislation'' to eliminate unnecessary words. The words ''activity or function'' are substituted for ''function, activity, or authority'' for consistency. The words ''in addition to those functions, activities, and authorities then existing or as then being administered and operated'' are omitted as surplus.

In subsection (a)(16), the words ''fiscal year for which the budget is submitted'' are substituted for ''such fiscal year'' for clarity.

In subsection (a)(17), the words ''fiscal year following the fiscal year for which the budget is submitted'' are substituted for ''next succeeding fiscal year'', the words ''that following fiscal year'' are substituted for ''such succeeding fiscal year'', and the words ''fiscal year before'' are substituted for ''fiscal year preceding'', for clarity and consistency.

In subsection (a)(18), the words ''uncontrollable or'' are omitted as being included in ''relatively uncontrollable''.

In subsection (a)(19) and (20), the word ''receipts'' is substituted for ''revenues'' for consistency in the revised title.

Subsection (a)(20) is substituted for 31:11(f)(3) to eliminate unnecessary words.

In subsection (a)(21), the words ''the totality of'' are omitted as surplus.

In subsection (a)(22), the words ''budget outlays'' are substituted for ''outlays'' for consistency. The words ''beginning with the fiscal year ending September 30, 1979'' are omitted as executed.

In subsection (a)(23), the words ''for appropriations'' are substituted for ''amounts required for appropriations'' to eliminate unnecessary words. The words ''for mine health and safety'' and ''for occupational safety and health'' are omitted as unnecessary because of the restatement.

In subsection (a)(24), the words ''(as defined in section 9101(2) of this title)'' are added because the subsection is based on a law to which the defined term applies. The words ''decides are desirable'' are substituted for ''may wish to make'' for consistency.

In subsection (b), the words ''for such years'' in 31:11(a)(5)(words after 2d comma) are omitted because of the restatement. The words ''of the United States'' and ''by him'' are omitted as surplus. The words ''to be included in each budget under subsection (a)(5) of this section'' are added because of the restatement. The words ''before October 16'' are substituted for ''on or before October 15'', and the word ''change'' is substituted for ''revision'', for consistency.

In subsection (c), the words ''new taxes, loans, or other'' are omitted as being included in ''appropriate action''. The words ''in effect'' are substituted for ''existing'' for consistency. The word ''aggregate'' is omitted as surplus.

In subsection (d), the words ''When the President submits a budget or supporting information about a budget, the President'' are substituted for ''The Budget transmitted pursuant to subsection (a) of this section for any fiscal year, or the supporting detail transmitted in connection therewith'' because of the restatement. The word ''changes'' is substituted for ''amendments and revisions'' to eliminate unnecessary words.

1983 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1105(a)(25) | 31 App.:11(k)(1). | June 10, 1921, ch. 18, 42 Stat. 20, §201(k)(1); added Sept. 8, 1982, Pub. L. 97–255, §3, 96 Stat. 815. |

The words ''The President shall include in the supporting detail accompanying each Budget'' are omitted as being included in the introductory provisions of 31:1105(a). The words ''submitted on or after January 1, 1983'' are omitted as executed. The words ''by the President'' and ''if any'' are omitted as surplus.

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (a)(23), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Federal Mine Safety and Health Act of 1977, referred to in subsec. (a)(23), is Pub. L. 91–173, Dec. 30, 1969, 83 Stat. 742, as amended by Pub. L. 95–164, title I, §101, Nov. 9, 1977, 91 Stat. 1290, which is classified principally to chapter 22 (§801 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

Section 11(2) of the Inspector General Act of 1978, referred to in subsec. (a)(25), is section 11(2) of Pub. L. 95–452, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 5 of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (a)(30), is section 5 of Pub. L. 103–226, which is set out as a note under section 3101 of Title 5, Government Organization and Employees.

Section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (a)(32), is classified to section 907(b)(2) of Title 2, The Congress.

The Emergency Economic Stabilization Act of 2008, referred to in subsec. (a)(35), is div. A of Pub. L. 110–343, Oct. 3, 2008, 122 Stat. 3765, which is classified principally to chapter 52 (§5201 et seq.) of Title 12, Banks and Banking. Section 123 of the Act is classified to section 5232 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 5201 of Title 12 and Tables.

The Federal Credit Reform Act of 1990, referred to in subsec. (a)(35), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which 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.

Section 801 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, referred to in subsec. (h), is section 801 of Pub. L. 108–173, which is set out as a note under section 1395i of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (a)(33). Pub. L. 110–409 added par. (33) relating to appropriations for the Council of the Inspectors General on Integrity and Efficiency and struck out former subsec. (33) relating to separate account for Inspectors General Criminal Investigator Academy and Inspectors General Forensic Laboratory.

Subsec. (a)(35). Pub. L. 110–343 added par. (35).

2003—Subsec. (g)(2)(B)(ii). Pub. L. 108–178 inserted ''section'' before ''1102 of title 40''.

Subsec. (h). Pub. L. 108–173 added subsec. (h).

2002—Subsec. (a)(33). Pub. L. 107–296 added par. (33) relating to detailed, separate analysis of homeland security appropriations, obligational authority, and outlays.

Subsec. (a)(34). Pub. L. 107–189 added par. (34).

Subsec. (g)(2)(B)(ii). Pub. L. 107–217 substituted ''1102 of title 40'' for ''section 901 of the Brooks Architect-Engineers Act (40 U.S.C. 541)''.

2000—Subsec. (a)(33). Pub. L. 106–422 added par. (33) relating to separate account for Inspectors General Criminal Investigator Academy and Inspectors General Forensic Laboratory.

1999—Subsec. (a)(31). Pub. L. 106–58 added par. (31).

1998—Subsec. (a)(26). Pub. L. 105–277 added par. (26) relating to statement of appropriations requested for drug programs.

1997—Subsec. (a)(32). Pub. L. 105–33 added par. (32).

1996—Subsecs. (a)(26) to (31). Pub. L. 104–287 redesignated pars. (27) to (31) as (26) to (30), respectively. Former par. (26) previously terminated.

1994—Subsec. (a)(26), (27). Pub. L. 103–272 renumbered par. (26) as (27).

Subsec. (a)(30), (31). Pub. L. 103–322 added pars. (30) and (31).

Subsec. (g). Pub. L. 103–355 added subsec. (g).

1993—Subsec. (a)(29). Pub. L. 103–62 added par. (29).

1990—Subsec. (a). Pub. L. 101–508, § 13112(c)(1), substituted ''On or after the first Monday in January but not later than the first Monday in February of each year'' for ''On or before the first Monday after January 3 of each year (or on or before February 5 in 1986)''.

Subsec. (a)(28). Pub. L. 101–576 added par. (28).

Subsec. (f). Pub. L. 101–508, § 13112(c)(2), amended subsec. (f) generally, substituting ''The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.'' for

''(f)(1) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared on the basis of the best estimates then available, in such a manner as to ensure that the deficit for such fiscal year shall not exceed the maximum deficit amount for such fiscal year as determined under paragraph (7) of section 3 of the Congressional Budget and Impoundment Control Act of 1974.

''(2) The deficit set forth in the budget so transmitted for any fiscal year shall not exceed the maximum deficit amount for such fiscal year as determined under paragraph (7) of section 3 of the Congressional Budget and Impoundment Control Act of 1974, with budget outlays and Federal revenues at such levels as the President may consider most desirable and feasible.

''(3) The budget transmitted pursuant to subsection (a) for a fiscal year shall include a budget baseline estimate made in accordance with section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and using economic and technical assumptions consistent with the current services budget submitted under section 1109 for the fiscal year. If such budget baseline estimate differs from the estimate in the current services budget, the President shall explain the differences. The budget transmitted pursuant to subsection (a) for such fiscal year shall include the information required by section 251(a)(2) of such Act (other than account-level detail) assuming that the deficit in such budget baseline were the amount estimated by the Director of the Office of Management and Budget on August 25 of the calendar year in which the fiscal year begins.

''(4) Paragraphs (1) and (2) shall not apply with respect to fiscal year 1989 if the budget transmitted for such fiscal year provides for deficit reduction from a budget baseline deficit for such fiscal year (as defined by section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and based on laws in effect on January 1, 1988) equal to or greater than $36,000,000,000.

''(5) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.''

1988—Subsec. (a)(25). Pub. L. 100–504 amended par. (25) generally. Prior to amendment, par. (25) read as follows: ''a separate statement, for each agency having an Office of Inspector General, of the amount of the appropriation requested for the Office.''

Subsec. (a)(26). Pub. L. 100–690, §§ 1006, 1009, temporarily added par. (26) relating to statement of appropriations requested for drug programs. See Effective and Termination Dates of 1988 Amendments note below.

Pub. L. 100–418, §§ 5301, 5303, temporarily added par. (26) which read as follows: ''an analysis, prepared by the Office of Management and Budget after consultation with the chairman of the Council of Economic Advisers, of the budget's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year for which the budget is submitted—

''(A) the amount of borrowing by the Government in private credit markets;

''(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

''(C) net private domestic investment;

''(D) the merchandise trade and current accounts;

''(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

''(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.''

See Effective and Termination Dates of 1988 Amendments note below.

1987—Subsec. (f)(3) to (5). Pub. L. 100–119 added pars. (3) and (4) and redesignated former par. (3) as (5).

1985—Subsec. (a). Pub. L. 99–177, § 241(a), substituted ''On or before the first Monday after January 3 of each year (or on or before February 5 in 1986)'' for ''During the first 15 days of each regular session of Congress''.

Subsec. (f). Pub. L. 99–177, §§ 241(b), 275(b), temporarily added subsec. (f). See Effective and Termination Dates of 1985 Amendment note below.

1984—Subsec. (e). Pub. L. 98–501 added subsec. (e).

1983—Subsec. (a)(25). Pub. L. 97–452 added par. (25).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. A, title II, § 203(c), Oct. 3, 2008, 122 Stat. 3801, provided that: ''This section [amending this section and enacting provisions set out as a note under this section] and the amendment made by this section shall apply beginning with respect to the fiscal year 2010 budget submission of the President.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Pub. L. 107–296, title VIII, §889(c), Nov. 25, 2002, 116 Stat. 2251, provided that: ''This section [amending this section and provisions set out as a note under section 2301 of Title 50, War and National Defense, and repealing provisions set out as a note under section 1113 of this title] and the amendment made by this section shall apply beginning with respect to the fiscal year 2005 budget submission.''

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–58 effective at noon on Jan. 20, 2001, see section 638(h) of Pub. L. 106–58, set out as a note under section 503 of this title.

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 AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by Pub. L. 100–690 effective Jan. 21, 1989, and repealed Sept. 30, 1997, see sections 1012 and 1009, respectively, of Pub. L. 100–690.

Section 5303 of Pub. L. 100–418 provided that: ''The amendment made by section 5301 [amending this section] shall be effective for fiscal years 1989, 1990, 1991, and 1992, and shall be fully reflected in the budgets submitted by the President as required by section 1105(a) of title 31, United States Code, for each such fiscal year, and the amendment made by section 5302 [amending section 632 of Title 2, The Congress] shall be effective for fiscal years 1989, 1990, 1991, and 1992.''

Amendment by Pub. L. 100–504 effective 180 days after Oct. 18, 1988, see section 113 of Pub. L. 100–504, set out as an Effective Date of 1988 Amendment note under section 5 of Pub. L. 95–452 [Inspector General Act of 1978] in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Amendment of subsec. (a) and enactment of subsec. (f) of this section by Pub. L. 99–177 effective Dec. 12, 1985, and applicable with respect to fiscal years beginning after Sept. 30, 1985, but with subsec. (f) to expire Sept. 30, 2002, see section 275(a)(1), (b) of Pub. L. 99–177, as amended, set out as an Effective and Termination Dates note under section 900 of Title 2, The Congress.

CONSTRUCTION OF 1993 AMENDMENT

Amendment made by Pub. L. 103–62 not to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a Construction note under section 1115 of this title.

CONSULTATION

Pub. L. 110–343, div. A, title II, §203(b), Oct. 3, 2008, 122 Stat. 3801, provided that: ''In implementing this section [amending this section and enacting provisions set out as a note under this section], the Director of [the] Office of Management and Budget shall consult periodically, but at least annually, with the Committee on the Budget of the House of Representatives, the Committee on the Budget of the Senate, and the Director of the Congressional Budget Office.''

PROCEDURES IN THE HOUSE OF REPRESENTATIVES

Pub. L. 108–173, title VIII, §803, Dec. 8, 2003, 117 Stat. 2360, provided that:

''(a) INTRODUCTION AND REFERRAL OF PRESIDENT'S LEGISLATIVE PROPOSAL.—

''(1) INTRODUCTION.—In the case of a legislative proposal submitted by the President pursuant to section 1105(h) of title 31, United States Code, within the 15-day period specified in paragraph (1) of such section, the Majority Leader of the House of Representatives (or his designee) and the Minority Leader of the House of Representatives (or his designee) shall introduce such proposal (by request), the title of which is as follows: 'A bill to respond to a medicare funding warning.' Such bill shall be introduced within 3 legislative days after Congress receives such proposal.

''(2) REFERRAL.—Any legislation introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House of Representatives.

''(b) DIRECTION TO THE APPROPRIATE HOUSE COMMITTEES.—

''(1) IN GENERAL.—In the House, in any year during which the President is required to submit proposed legislation to Congress under section 1105(h) of title 31, United States Code, the appropriate committees shall report medicare funding legislation by not later than June 30 of such year.

''(2) MEDICARE FUNDING LEGISLATION.—For purposes of this section, the term 'medicare funding legislation' means—

''(A) legislation introduced pursuant to subsection (a)(1), but only if the legislative proposal upon which the legislation is based was submitted within the 15-day period referred to in such subsection; or

''(B) any bill the title of which is as follows: 'A bill to respond to a medicare funding warning.'.

''(3) CERTIFICATION.—With respect to any medicare funding legislation or any amendment to such legislation to respond to a medicare funding warning, the chairman of the Committee on the Budget of the House shall certify—

''(A) whether or not such legislation eliminates excess general revenue medicare funding (as defined in section 801(c) [set out as a note under section 1395i of Title 42, The Public Health and Welfare]) for each fiscal year in the 7-fiscal-year reporting period; and

''(B) with respect to such an amendment, whether the legislation, as amended, would eliminate excess general revenue medicare funding (as defined in section 801(c)) for each fiscal year in such 7-fiscal-year reporting period.

''(c) FALLBACK PROCEDURE FOR FLOOR CONSIDERATION IF THE HOUSE FAILS TO VOTE ON FINAL PASSAGE BY JULY 30.—

''(1) After July 30 of any year during which the President is required to submit proposed legislation to Congress under section 1105(h) of title 31, United States Code, unless the House of Representatives has voted on final passage of any medicare funding legislation for which there is an affirmative certification under subsection (b)(3)(A), then, after the expiration of not less than 30 calendar days (and concurrently 5 legislative days), it is in order to move to discharge any committee to which medicare funding legislation which has such a certification and which has been referred to such committee for 30 calendar days from further consideration of the legislation.

''(2) A motion to discharge may be made only by an individual favoring the legislation, may be made only if supported by one-fifth of the total membership of the House (a quorum being present), and is highly privileged in the House. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(3) Only one motion to discharge a particular committee may be adopted under this subsection in any session of a Congress.

''(4) Notwithstanding paragraph (1), it shall not be in order to move to discharge a committee from further consideration of medicare funding legislation pursuant to this subsection during a session of a Congress if, during the previous session of the Congress, the House passed medicare funding legislation for which there is an affirmative certification under subsection (b)(3)(A).

''(d) FLOOR CONSIDERATION IN THE HOUSE OF DISCHARGED LEGISLATION.—

''(1) In the House, not later than 3 legislative days after any committee has been discharged from further consideration of legislation under subsection (c), the Speaker shall resolve the House into the Committee of the Whole for consideration of the legislation.

''(2) The first reading of the legislation shall be dispensed with. All points of order against consideration of the legislation are waived. General debate shall be confined to the legislation and shall not exceed five hours, which shall be divided equally between those favoring and those opposing the legislation. After general debate the legislation shall be considered for amendment under the five-minute rule. During consideration of the legislation, no amendments shall be in order in the House or in the Committee of the Whole except those for which there has been an affirmative certification under subsection (b)(3)(B). All points of order against consideration of any such amendment in the Committee of the Whole are waived. The legislation, together with any amendments which shall be in order, shall be considered as read. During the consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of Rule XVIII of the Rules of the House of Representatives. Debate on any amendment shall not exceed one hour, which shall be divided equally between those favoring and those opposing the amendment, and no pro forma amendments shall be offered during the debate. The total time for debate on all amendments shall not exceed 10 hours. At the conclusion of consideration of the legislation for amendment, the Committee shall rise and report the legislation to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the legislation and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of Rule XIV of the Rules of the House of Representatives, resolve into the Committee of the Whole for further consideration of the bill.

''(3) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any such legislation shall be decided without debate.

''(4) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any such legislation and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

''(e) LEGISLATIVE DAY DEFINED.—As used in this section, the term 'legislative day' means a day on which the House of Representatives is in session.

''(f) RESTRICTION ON WAIVER.—In the House, the provisions of this section may be waived only by a rule or order proposing only to waive such provisions.

''(g) RULEMAKING POWER.—The provisions of this section are enacted by the Congress—

''(1) as an exercise of the rulemaking power of the House of Representatives and, as such, shall be considered as part of the rules of that House and shall supersede other rules only to the extent that they are inconsistent therewith; and

''(2) with full recognition of the constitutional right of that House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.''

PROCEDURES IN THE SENATE

Pub. L. 108–173, title VIII, § 804, Dec. 8, 2003, 117 Stat. 2363, provided that:

''(a) INTRODUCTION AND REFERRAL OF PRESIDENT'S LEGISLATIVE PROPOSAL.—

''(1) INTRODUCTION.—In the case of a legislative proposal submitted by the President pursuant to section 1105(h) of title 31, United States Code, within the 15-day period specified in paragraph (1) of such section, the Majority Leader and Minority Leader of the Senate (or their designees) shall introduce such proposal (by request), the title of which is as follows: 'A bill to respond to a medicare funding warning.' Such bill shall be introduced within 3 days of session after Congress receives such proposal.

''(2) REFERRAL.—Any legislation introduced pursuant to paragraph (1) shall be referred to the Committee on Finance.

''(b) MEDICARE FUNDING LEGISLATION.—For purposes of this section, the term 'medicare funding legislation' means—

''(1) legislation introduced pursuant to subsection (a)(1), but only if the legislative proposal upon which the legislation is based was submitted within the 15-day period referred to in such subsection; or

''(2) any bill the title of which is as follows: 'A bill to respond to a medicare funding warning.'.

''(c) QUALIFICATION FOR SPECIAL PROCEDURES.—

''(1) IN GENERAL.—The special procedures set forth in subsections (d) and (e) shall apply to medicare funding legislation, as described in subsection (b), only if the legislation—

''(A) is medicare funding legislation that is passed by the House of Representatives; or

''(B) contains matter within the jurisdiction of the Committee on Finance in the Senate.

''(2) FAILURE TO QUALIFY FOR SPECIAL PROCEDURES.—If the medicare funding legislation does not satisfy paragraph (1), then the legislation shall be considered under the ordinary procedures of the Standing Rules of the Senate.

''(d) DISCHARGE.—

''(1) IN GENERAL.—If the Committee on Finance has not reported medicare funding legislation described in subsection (c)(1) by June 30 of a year in which the President is required to submit medicare funding legislation to Congress under section 1105(h) of title 31, United States Code, then any Senator may move to discharge the Committee of any single medicare funding legislation measure. Only one such motion shall be in order in any session of Congress.

''(2) DEBATE LIMITS.—Debate in the Senate on any such motion to discharge, and all appeals in connection therewith, shall be limited to not more than 2 hours. The time shall be equally divided between, and controlled by, the maker of the motion and the Majority Leader, or their designees, except that in the event the Majority Leader is in favor of such motion, the time in opposition thereto shall be controlled by the Minority Leader or the Minority Leader's designee. A point of order under this subsection may be made at any time. It is not in order to move to proceed to another measure or matter while such motion (or the motion to reconsider such motion) is pending.

''(3) AMENDMENTS.—No amendment to the motion to discharge shall be in order.

''(4) EXCEPTION IF CERTIFIED LEGISLATION ENACTED.—Notwithstanding paragraph (1), it shall not be in order to discharge the Committee from further consideration of medicare funding legislation pursuant to this subsection during a session of a Congress if

the chairman of the Committee on the Budget of the Senate certifies that medicare funding legislation has been enacted that eliminates excess general revenue medicare funding (as defined in section 801(c) [set out as a note under section 1395i of Title 42, The Public Health and Welfare]) for each fiscal year in the 7-fiscal-year reporting period.

''(e) CONSIDERATION.—After the date on which the Committee on Finance has reported medicare funding legislation described in subsection (c)(1), or has been discharged (under subsection (d)) from further consideration of, such legislation, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such legislation.

''(f) RULES OF THE SENATE.—This section is enacted by the Senate—

''(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a bill described in this paragraph, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.''

[For definition of ''7-fiscal-year reporting period'' as used in section 804 of Pub. L. 108–173, set out above, see section 801(a)(3) of Pub. L. 108–173, set out as a note under section 1395i of Title 42, The Public Health and Welfare.]

TRANSPORTATION SECURITY ADMINISTRATION

Pub. L. 107–71, title I, §142, Nov. 19, 2001, 115 Stat. 644, provided that: ''The President's budget submission for fiscal year 2003 and each fiscal year thereafter shall reflect the establishment of the Transportation Security Administration.''

[For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 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.]

ANNUAL STATEMENT AND REPORT ON RULES AND REGULATIONS

Pub. L. 106–554, §1(a)(3) [title VI, §624], Dec. 21, 2000, 114 Stat. 2763, 2763A–161, provided that:

''(a) IN GENERAL.—For calendar year 2002 and each year thereafter, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

''(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

''(A) in the aggregate;

''(B) by agency and agency program; and

''(C) by major rule;

''(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

''(3) recommendations for reform.

''(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

''(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

''(1) measures of costs and benefits; and

''(2) the format of accounting statements.

''(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–58, title VI, §628, Sept. 29, 1999, 113 Stat. 472.

Pub. L. 105–277, div. A, §101(h) [title VI, §638], Oct. 21, 1998, 112 Stat. 2681–480, 2681–525.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Pub. L. 106–159, title I, §107(b), Dec. 9, 1999, 113 Stat. 1758, provided that: ''The President's budget submission for fiscal year 2001 and each fiscal year thereafter shall reflect the establishment of the Federal Motor Carrier Safety Administration in accordance with this Act [see Tables for classification].''

ADMINISTRATIVE EXPENSES OF LEGISLATIVE BRANCH ENTITIES; SEPARATE CATEGORIES; COMPLIANCE REPORTING

Pub. L. 103–69, title III, §308, Aug. 11, 1993, 107 Stat. 710, as amended by Pub. L. 104–316, title I, §115(c), Oct. 19, 1996, 110 Stat. 3834, for fiscal years 1995, 1996, and 1997, required submissions in support of amounts included in Budget for each entity of the legislative branch to set forth a separate category for administrative expenses, for fiscal years 1993 and 1994, required administrative expenses for each entity of the legislative branch to be calculated and submitted in a separate category in same format as if submitted in support of amounts included in the Budget, for fiscal years 1994, 1995, 1996, and 1997, required submissions in the separate category for administrative expenses for each entity of the legislative branch to include reductions by a specific percentage for fiscal years 1994 to 1997, and authorized the Comptroller General to carry out compliance reporting under this section.

SEPARATE OBJECT CLASS FOR CONSULTING SERVICES IN ANNUAL BUDGETS

Pub. L. 102–394, title V, §512, Oct. 6, 1992, 106 Stat. 1826, which directed the Office of Management and Budget to establish funding for consulting services for each department and agency as separate object class in each budget annually submitted to Congress under this section, was repealed and restated in subsec. (g) of this section by Pub. L. 103–355, title II, §2454(a), (b), Oct. 13, 1994, 108 Stat. 3326.

NASA TRIENNIAL BUDGET REQUESTS AND ESTIMATES

Pub. L. 100–685, title I, §104, Nov. 17, 1988, 102 Stat. 4086, provided that: ''Commencing in fiscal year 1990 and every year thereafter, the President shall submit to Congress a budget request for the National Aeronautics and Space Administration for the immediate fiscal year and the following fiscal year, and include budget estimates for the third fiscal year.''

TWO-YEAR BUDGET CYCLE FOR COAST GUARD

Pub. L. 102–241, §11, Dec. 19, 1991, 105 Stat. 2212, provided that: ''Notwithstanding another law, the President is not required to submit a two-year budget request for the Coast Guard until the President is required to submit a two-year budget request for the Department of Transportation.''

[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.]

Pub. L. 100–448, § 24, Sept. 28, 1988, 102 Stat. 1847, provided that:

''(a) OPINION OF CONGRESS.—It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

''(b) SUBMISSION OF 2-YEAR BUDGET BY PRESIDENT.—The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

''(c) REPORT.—Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing—

''(1) the Secretary's views on the advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle;

''(2) the Secretary's plans for converting to a 2-year budget cycle; and

''(3) a description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.''

[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.]

WATER AND SEWER SERVICES FURNISHED TO GOVERNMENT FACILITIES IN DISTRICT OF COLUMBIA

Pub. L. 100–202, § 101(c) [title I, § 136], Dec. 22, 1987, 101 Stat. 1329–90, 1329–102, provided that: ''After the effective date of this Joint Resolution [Dec. 22, 1987], the President shall include, without change, in each annual budget submitted to the Congress under section 1105 of title 31, United States Code, the values estimated by the Mayor of the District of Columbia for water and water services and sanitary sewer services furnished to facilities of the United States Government under sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended (D.C. Code, sections 43–1552, 43–1612).''

TWO-YEAR BUDGET CYCLE FOR DEPARTMENT OF DEFENSE

Pub. L. 99–145, title XIV, § 1405, Nov. 8, 1985, 99 Stat. 744, which related to congressional findings concerning a two-year budget cycle for the Defense Department, requirement that President submit two-year budget proposals, and a report by the Secretary of Defense to be submitted not later than Apr. 1, 1986, was repealed by Pub. L. 110–181, div. A, title X, § 1006, Jan. 28, 2008, 122 Stat. 303.

FEDERAL CAPITAL INVESTMENT PROGRAM; CONGRESSIONAL STATEMENT OF PURPOSES

Section 202 of Pub. L. 98–501 provided that: ''The purposes of this title [amending this section and enacting provisions set out as notes under this section and section 1101 of this title] are—

''(1) to provide budget projections for major Federal capital investment programs;

''(2) to provide a summary of the most recent needs assessment analyses for these programs;

''(3) to provide information on the sensitivity of the needs estimates to major policy issues and technical and economic variables;

''(4) to assist the planning capabilities of State and local governments on the assessment of major capital investment programs; and

''(5) to improve legislative oversight over Federal capital investment programs.''

DEFICIT REDUCTION FUND

For provisions requiring information about Deficit Reduction Fund, including a separate statement of amounts in and Federal debt redeemed by that Fund to be included in budget transmitted under this section, see Ex. Ord. No. 12858, § 3, Aug. 4, 1993, 58 F.R. 42185, set out as a note under section 900 of Title 2, The Congress.

BUDGET CONTROL

For provisions requiring annual review of direct spending and receipts to be part of each budget submitted under subsec. (a) of this section, see Ex. Ord. No. 12857, § 3, Aug. 4, 1993, 58 F.R. 42181, formerly set out as a note under section 900 of Title 2, The Congress.

EX. ORD. NO. 6715. FILING OF FUNCTIONAL ORGANIZATION CHARTS WITH THE DIRECTOR OF THE BUREAU OF THE BUDGET

Ex. Ord. No. 6715, May 23, 1934, provided:

(1) Each executive department, independent establishment, and emergency agency shall file with the Director of the Bureau of the Budget [now Director of Office of Management and Budget] a functional organization chart, indicating its various existing bureaus, divisions, sections, etc., and containing a description of the functions respectively performed, and shall file such additional charts from time to time, as may be necessary to show all changes made therein.

(2) Every executive department, independent establishment, and emergency agency hereafter created shall within 5 days after the appointment of the head thereof file a preliminary functional organization chart with the Director of the Bureau of the Budget.

(3) The Director of the Bureau of the Budget is hereby authorized to prescribe, subject to the approval of the President, such rules and regulations as will indicate the information desired and the form of chart to be furnished.

ASSIGNMENT OF FUNCTION REGARDING MEDICARE FUNDING

Memorandum of the President of the United States, Feb. 14, 2008, 73 F.R. 9169, provided:

Memorandum for the Secretary of Health and Human Services

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, you are directed to perform the function of the President as described under section 802 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173, 31 U.S.C. 1105(h)(1)).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

## § 1106. Supplemental budget estimates and changes

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements, and financial condition of the United States Government;

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)–(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 911; Pub. L. 99–177, title II, § 242, Dec. 12, 1985, 99 Stat. 1063.)

TERMINATION OF SUBSECTION (c)

*Subsection (c) of this section expired Sept. 30, 2002, pursuant to section 275(b) of Pub. L. 99–177, as amended. See 1985 Amendment note and Effective and Termination Dates of 1985 Amendment note below.*

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1106(a) ..... | 31:11(b), (c). | June 10, 1921, ch. 18, 42 Stat. 20, § 201(b), (c); added Aug. 25, 1958, Pub. L. 85–759, § 1, 72 Stat. 852; restated Oct. 26, 1970, Pub. L. 91–510, § 221(b), 84 Stat. 1169; July 12, 1974, Pub. L. 93–344, § 602, 88 Stat. 324. |
| 1106(b) ..... | 31:11(g)(1st–3d sentences). | June 10, 1921, ch. 18, 42 Stat. 20, § 201(g)(1st–3d sentences); added July 12, 1974, Pub. L. 93–344, § 601, 88 Stat. 323. |

In subsection (a), before clause (1), the words ''Before July 16'' are substituted for ''on or before July 15'' for consistency. The words ''budget for the fiscal year for which the budget is submitted'' are substituted for ''Budget for the ensuing fiscal year transmitted to the Congress by the President'' to eliminate unnecessary words and for consistency in the chapter. The words ''in such form and detail as he may determine'' are omitted as unnecessary. In clause (1)(D), the words ''in summary form'' and ''summary of'' are omitted as unnecessary. The word ''necessary'' is omitted as being included in ''advisable''. In clauses (2) and (3), the word ''information'' is substituted for ''summaries'' because of the restatement. In clause (2), the words ''programs authorized to continue in future years, or that are considered mandatory, under law'' are substituted for ''continuing programs which have a legal commitment for future years or are considered mandatory under existing law'' for consistency.

In subsection (b), the words ''Before April 11 and July 16'' are substituted for ''on or before April 10 and July 15'', the word ''changes'' is substituted for ''all amendments to or revisions in'', and the words ''budget outlays'' are substituted for ''outlays'', the words ''fiscal year for which the budget is submitted'' are substituted for ''ensuing fiscal year set forth in the Budget transmitted pursuant to subsection (a) of this section'', for consistency. The word ''information'' is substituted for ''summary data'' because of the restatement.

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–177, § 242(a), struck out ''April 11 and'' before ''July 16''.

Subsec. (c). Pub. L. 99–177, §§ 242(b), 275(b), temporarily added subsec. (c), which read as follows: ''Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.'' See Effective and Termination Dates of 1985 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

Amendment by Pub. L. 99–177 effective Dec. 12, 1985, and applicable with respect to fiscal years beginning after Sept. 30, 1985, but with subsec. (c) to expire Sept. 30, 2002, see section 275(a)(1), (b) of Pub. L. 99–177, as amended, set out as an Effective and Termination Dates note under section 900 of Title 2, The Congress.

## § 1107. Deficiency and supplemental appropriations

The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under that section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 911.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1107 ..... | 31:14. | June 10, 1921, ch. 18, § 203, 42 Stat. 21; restated Sept. 12, 1950, ch. 946, § 102(b), 64 Stat. 833. |

In the section, the words ''reach an aggregate which'' are omitted as surplus.

**§ 1108. Preparation and submission of appropriations requests to the President**

(a) In this section (except subsections (b)(1) and (e)), ''agency'' means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 912.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1108(a) ..... | (no source). | |
| 1108(b)(1) | 31:16(last sentence related to appropriations requests). | June 10, 1921, ch. 18, § 207(last sentence related to appropriations requests), 42 Stat. 22; restated Sept. 12, 1950, ch. 946, § 102(e), 64 Stat. 833; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| | 31:22, 23. | June 10, 1921, ch. 18, §§ 214, 215, 42 Stat. 23; restated Sept. 12, 1950, ch. 946, § 102(f), (g), 64 Stat. 833; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| | 31:24(a). | June 10, 1921, ch. 18, § 216(a), 42 Stat. 23; restated Sept. 12, 1950, ch. 946, § 102(h), 64 Stat. 834; Aug. 1, 1956, ch. 814, § 1(b), 70 Stat. 782; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| | 31:24(b), (c). | June 10, 1921, ch. 18, 42 Stat. 20, § 216(b), (c); added Aug. 1, 1956, ch. 814, § 1(b), 70 Stat. 782. |
| 1108(b)(2) | 31:581b. | Sept. 12, 1950, ch. 946, § 201, 64 Stat. 838; Reorg. Plan. No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| 1108(c) ..... | 31:200(b). | Aug. 26, 1954, ch. 935, § 1311(b), 68 Stat. 830; restated July 8, 1959, Pub. L. 86–79, § 210(a), 73 Stat. 167; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| | 31:200(c). | Aug. 26, 1954, ch. 935, § 1311(c), 68 Stat. 831. |
| 1108(d) ..... | 31:11(i)(last sentence). | June 10, 1921, ch. 18, 42 Stat. 20, § 201(i)(last sentence); added July 12, 1974, Pub. L. 93–344, § 601, 88 Stat. 323. |
| 1108(e) ..... | 31:15. | June 10, 1921, ch. 18, § 206, 42 Stat. 21. |
| 1108(f) ..... | 31:11(j). | June 10, 1921, ch. 18, 42 Stat. 20, § 201(j); added Feb. 5, 1976, Pub. L. 94–210, § 311, 90 Stat. 60. |
| 1108(g) ..... | 31:22a. | Aug. 7, 1953, ch. 340, § 1314, 67 Stat. 438. |

Subsection (a) is included because the source provisions restated in subsections (c), (d), (f), and (g) of the revised section are derived from laws that apply to all organizational units and branches of the United States Government rather than the units and branches included in the chapter-wide definition in section 1101.

In subsection (b)(1), the word ''President'' is substituted for ''Office'' in 31:16(last sentence) and ''Office of Management and Budget'' in 31:23 and 24(a) 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. The words ''prepare'' is substituted for ''prepare or cause to be prepared'' in 31:22 to eliminate unnecessary words. The word ''appropriations'' is substituted for ''regular, supplementary, or deficiency appropriations'' in 31:22 and 24(a) to eliminate unnecessary words. The words ''in each year'' are omitted as surplus. The words ''in the form prescribed by the President under this chapter and by the date estab-

lished by the President'' are substituted for ''on or before a date which the President shall determine'' in 31:23, and ''as the President may determine in accordance with the provisions of section 11 of this title'' and ''in such manner and at such times as may be determined by the President'' in 31:24, to eliminate unnecessary words and to provide a cross-reference to the authority of the President to prepare and submit budgets and appropriations request. The words ''prepare the request for the agency to be included in the budget or changes in the budget or as deficiency or supplemental appropriations'' are substituted for ''cause such requests to be prepared as are necessary to enable him to include such requests with the Budget in respect to the work of such department or establishment'' in 31:23 for clarity and because of the restatement. The word ''change'' is substituted for ''assemble, correlate, revise, reduce, or increase'' in 31:16 (last sentence) to eliminate unnecessary words. The words ''The head of the agency shall use'' are substituted for ''shall be used by all departments and establishments and their subordinate units'' and ''shall be made on the basis of'' in 31:24 as being more precise. The word ''operation'' is omitted as being included in ''administer''. The word ''amounts'' is substituted for ''funds'' for consistency in the revised title. The word ''divide'' is substituted for ''administrative subdivisions'' because of the restatement.

In subsection (b)(2), the words ''deficiency or supplemental appropriations'' are substituted for ''subsequent appropriations'' for consistency. The words ''the Office of Management and Budget'' are omitted because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words ''the agency'' are substituted for ''by such department or establishment, or by any organization unit thereof'' to eliminate unnecessary words.

In subsection (c), before clause (1), the word ''President'' is substituted for ''Office of Management and Budget'' in 31:200(b) because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words ''submitted with the request contains obligations consistent with'' are substituted for ''furnished therewith consists of valid obligations as defined in'' for clarity and because of the restatement. The words ''The head of the agency shall support the report with a certification of the consistency'' are substituted for ''Each report made pursuant to subsection (b) of this section shall be supported by certifications'' in 31:200(c) for clarity. The words ''duty to make certifications'' are substituted for ''responsibility'' for consistency.

In subsection (d)(1), the words ''its missions'' are substituted for ''its assigned mission'', and the words ''the mission'' are substituted for ''mission responsibilities'', to eliminate unnecessary words.

In subsection (d)(2), the word ''mission'' is substituted for ''agency missions'' to eliminate unnecessary words.

In subsection (e), the words ''Except as provided in subsection (f) of this section'' are added because of the restatement. The word ''financial'' is substituted for ''revenue'' for consistency in the revised title.

In subsection (f), the word ''personnel'' is substituted for ''manpower'', and the words ''at the same time'' are substituted for ''concurrently'', for clarity. The words ''officer of an agency'' are substituted for ''officer or agency'' as being more precise. The word ''prohibit'' is omitted as being included in ''impose conditions on or impair''. The word ''communication'' is substituted for ''free communication'' to eliminate a surplus word. The words ''about the information'' are substituted for ''with respect to any budget estimate or request of the Commission'' for consistency and to eliminate unnecessary words.

In subsection (g), the word ''Amounts'' is substituted for ''Funds'', the word ''law'' is substituted for ''Act'', and the words ''regulations prescribed'' are substituted for ''regulations'', for consistency in the revised title. The words ''of Congress'' are added for clarity.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

## § 1109. Current programs and activities estimates

(a) On or before the first Monday after January 3 of each year (on or before February 5 in 1986), the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading ''Budget Authority and Outlays by Function and Agency'', by major programs in each function, and by agency. The President also shall include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before March 1 of each year.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913; Pub. L. 99–177, title II, § 222, Dec. 12, 1985, 99 Stat. 1060.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1109(a) ..... | 31:11a(a). | July 12, 1974, Pub. L. 93–344, § 605, 88 Stat. 325. |
| 1109(b) ..... | 31:11a(b). | |

In the section, the words ''budget outlays'' are substituted for ''outlays'' for consistency in the revised title.

In subsection (a), the words ''Before November 11'' are substituted for ''On or before November 10'', the words ''both Houses of Congress'' are substituted for ''the Senate and the House of Representatives'', the word ''following'' is substituted for ''ensuing'', and the word ''current'' is substituted for ''in progress'', for consistency. The words ''(beginning with 1975)'' are omitted as executed. The words ''of the United States Government'' are added for clarity. The words ''in such programs and activities'' are omitted as surplus. The words ''The President shall state'' are substituted for ''shall be shown'', and the words ''The President also shall include'' are substituted for ''Accompanying these estimates shall be'', because of the restatement.

In subsection (b), the words ''so submitted'' are omitted as unnecessary. The words ''before January 1'' are substituted for ''on or before December 31'' for consistency.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–177, § 222(a), substituted ''On or before the first Monday after January 3 of each year (on or before February 5 in 1986)'' for ''Before November 11 of each year''.

Subsec. (b). Pub. L. 99–177, § 222(b), substituted ''March 1'' for ''January 1''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–177 effective Dec. 12, 1985, and applicable with respect to fiscal years beginning after Sept. 30, 1985, see section 275(a)(1) of Pub. L. 99–177, set out as an Effective and Termination Dates note under section 900 of Title 2, The Congress.

## § 1110. Year-ahead requests for authorizing legislation

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the first and 2d fiscal years.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1110 ..... | 31:11c. | July 12, 1974, Pub. L. 93–344, § 607, 88 Stat. 325. |

The words ''Notwithstanding any other provision of law'' are omitted as unnecessary. The words ''the enactment of'' before ''new'' are omitted as surplus. The words ''(beginning with the fiscal year commencing October 1, 1976)'' are omitted as executed. The words ''a request for the enactment of legislation authorizing the enactment of new budget authority for'' are omitted for consistency in the chapter.

## § 1111. Improving economy and efficiency

To improve economy and efficiency in the United States Government, the President shall—

(1) make a study of each agency to decide, and may send Congress recommendations, on changes that should be made in—

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1111 ..... | 31:18. | June 10, 1921, ch. 18, § 209, 42 Stat. 22; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 31:18a. | Sept. 12, 1950, ch. 946, § 104, 64 Stat. 834; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |

In the section, before clause (1), the words ''To improve economy and efficiency in the United States Government'' are substituted for ''(with a view of securing greater economy and efficiency in the conduct of the public service)'' in 31:18 and ''with a view to efficient and economical service'' in 31:18a to eliminate unnecessary words. The word ''President'' is substituted for ''Office of Management and Budget, when directed by the President'' in 31:18 and ''President, through the Director of the Office of Management and Budget'' in 31:18a 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. In clause (1), the words ''existing'' and ''detailed'' are omitted as surplus.

REGULATORY REDUCTIONS

For provisions requiring executive departments and agencies to undertake to eliminate not less than 50 percent of its civilian internal management regulations not required by law, see Ex. Ord. No. 12861, Sept. 11, 1993, 58 F.R. 48255, set out as a note under section 601 of Title 5, Government Organization and Employees.

## § 1112. Fiscal, budget, and program information

(a) In this section, ''agency'' means a department, agency, or instrumentality of the United States Government except a mixed-ownership Government corporation.

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, programs, projects, activities, and functions;

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and use of standard terms and classifications by the executive branch of the Government; and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

(1) consistency in budget and accounting classifications;

(2) synchronization between those classifications and organizational structure; and

(3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budgets of assistance of the United States Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1112(a) ..... | 31:1157. | Oct. 26, 1970, Pub. L. 91–510, § 207, 84 Stat. 1168. |
| 1112(b) ..... | 31:1151. | Oct. 26, 1970, Pub. L. 91–510, §§ 201, 202(a), (b), 203(d), 84 Stat. 1167, 1168; restated July 12, 1974, Pub. L. 93–344, § 801(a), 88 Stat. 327, 328, 329. |
| 1112(c) ..... | 31:1152(a)(1)(1st, 2d sentences), (2), (b). | |
| 1112(d) ..... | 31:1152(a)(1)(last sentence). | |
| 1112(e) ..... | 31:18c. | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 106; added Aug. 1, 1956, ch. 814, § 2(a), 70 Stat. 782; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| 1112(f) ..... | 31:1153(d). | |

In the section, the words ''program information'' are substituted for ''program-related data and information'' to eliminate unnecessary words.

In subsection (a), the words '''agency' . . . of the United States Government except a mixed-ownership Government corporation'' are substituted for '''Federal agency' . . . wholly owned Government corporation'' for clarity and consistency in the revised title and with other titles of the United States Code. The word ''establishment'' is omitted as surplus. The words ''government of the District of Columbia'' are omitted as superseded by sections 441–455, 501, and 736 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93–198, 87 Stat. 798, 812, 823).

In subsections (b) and (c)(1), the word ''develop'' is omitted as being included in ''establish''.

In subsection (b), the words ''The development, establishment, and maintenance of such systems shall be carried out so as'' are omitted as unnecessary because of the restatement.

In subsection (c)(1) and (2), the words ''terms and classifications'' are substituted for ''terminology, definitions, classifications, and codes'' to eliminate unnecessary words. In clause (1), the words ''The authority contained in this section shall include, but not be limited to'' are omitted as surplus. In clause (2), the words ''After June 30, 1975'' are omitted as executed. The word ''additional'' is omitted as surplus. The words ''establishment, maintenance, and use of'' are substituted for ''development, establishment, and maintenance, modification . . . implementation'' to eliminate unnecessary words and for consistency in the revised section. The words ''by the executive branch of the Government'' are substituted for ''executive'' for clarity. The text of 31:1152(a)(2)(1st sentence) is omitted as executed. In clause (3), the words ''this subsection'' are substituted for ''this responsibility'' because of the restatement.

In subsection (c)(1), the word ''revenues'' is omitted as being included in ''receipts''. The word ''spending'' is substituted for ''expenditures'' for consistency in the revised title.

In subsection (e), 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.

## § 1113. Congressional information

(a)(1) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, the Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and

reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)–(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 914; Pub. L. 97–452, § 1(3), Jan. 12, 1983, 96 Stat. 2467.)

HISTORICAL AND REVISION NOTES

1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1113(a) ..... | 31:20. | June 10, 1921, ch. 18, § 212, 42 Stat. 23; Reorg. Plan No. 1 of 1939, eff. July 1, 1939, § 1, 53 Stat. 1423; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |
| 1113(b)–(d) | 31:1153(a)–(c). | Oct. 26, 1970, Pub. L. 91–510, § 203(a)–(c), 84 Stat. 1168; restated July 12, 1974, Pub. L. 93–344, § 801(a), 88 Stat. 328. |
| 1113(e)(1) | 31:1152(c), (d). | Oct. 26, 1970, Pub. L. 91–510, § 202(c)–(f), 84 Stat. 1167; restated July 12, 1974, Pub. L. 93–344, § 801(a), 88 Stat. 328. |
| 1113(e)(2) | 31:1152(e). | |
| 1113(e)(3) | 31:1152(f). | |

In the section, the words ''committee of Congress'' are substituted for ''committee of either House, of any joint committee of the two Houses'' and variations of the substituted phrase to eliminate unnecessary words and for consistency in the revised title and with other titles of the United States Code.

In subsection (a), 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) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The word ''assistance'' is substituted for ''aid'', and the word ''receipts'' is substituted for ''revenue'', for consistency in the revised title.

In subsections (b)–(d), the words ''program information'' are substituted for ''program-related data and information'' to eliminate unnecessary words.

In subsection (b)(1) and (3), the words ''to such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office'' are omitted as unnecessary because of the restatement. In clause (1), the word ''kind'' is substituted for ''nature'' for consistency in the revised title. In clause (2), the words ''that fiscal, budgetary, and program information'' are substituted for ''such data and information'' because of the restatement.

In subsection (c), the word ''inventory'' is omitted as unnecessary. In clause (1), the word ''develop'' is omitted as being included in ''establish''. In clause (2), the word ''obtaining'' is substituted for ''securing'' as being more precise. In clause (3), the word ''evaluating'' is substituted for ''appraising and analyzing'' for clarity and to eliminate unnecessary words.

In subsection (d), the words ''individually or jointly . . . file'' are substituted for ''central file or files'' for clarity. The word ''information'' is substituted for ''data and information'', and the word ''needs'' is substituted for ''requirements'', for consistency in the section. The words ''carry out'' are substituted for ''carry out the purposes of'' because of the restatement. A cross reference to 31:1155–1156 is not included because those sections are not relevant to the information file described in the source provisions. The words ''so that it is easier'' are substituted for ''facilitate'' for clarity. The word ''modern'' is omitted as surplus.

In subsection (e)(1)(A), the word ''specify'' is omitted as being included in ''identify''. The words ''carry out'' are substituted for ''support the objectives'' for consistency. A cross reference to 31:1154–1156 is not included because those sections are not relevant to the continuing program described in the source provisions. In clause (B), the words ''including such needs expressed in legislative requirements'' are omitted as surplus. In clause (D), the word ''duplicative'' is omitted as being included in ''unnecessary''.

In subsection (e)(2), the words ''Before September 2 of each year'' are substituted for ''On or before September 1, 1974, and each year thereafter'' for consistency.

In subsection (e)(3), the words ''Before March 2 of each year'' are substituted for ''On or before March 1, 1975, and each year thereafter'' for consistency. The word ''codes'' is omitted as being included in ''classifications''. The words ''information systems'' are substituted for ''systems'', and the words ''use of standard classifications'' are substituted for ''classification implementations'', for consistency in the revised section.

1983 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1113(e)(2) | 31 App.:11(k)(2). | June 10, 1921, ch. 18, 42 Stat. 20, § 201(k)(2); added Sept. 8, 1982, Pub. L. 97–255, § 3, 96 Stat. 815. |

AMENDMENTS

1983—Subsec. (a). Pub. L. 97–452 redesignated existing provision as par. (1) and added par. (2).

TERMINATION OF REPORTING REQUIREMENTS CONTAINED IN THIS SECTION

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 certain reporting requirements under subsec. (e)(2)(A), (E), (3) of this section are listed on pages 9, 6, and 149, respectively), 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 below.

OVERSIGHT OF COUNTERTERRORISM AND ANTITERRORISM ACTIVITIES; REPORT

Pub. L. 105–85, div. A, title X, §1051, Nov. 18, 1997, 111 Stat. 1889, as amended by Pub. L. 105–261, div. A, title XIV, §1403, Oct. 17, 1998, 112 Stat. 2168, which authorized establishment of a reporting system for executive agencies with respect to the budget and expenditure of funds by such agencies for the purpose of carrying out counterterrorism and antiterrorism programs and activities and required annual report on amounts proposed to be expended and counterterrorism and antiterrorism programs and activities being implemented, was repealed by Pub. L. 107–296, title VIII, §889(b)(1), Nov. 25, 2002, 116 Stat. 2251.

TERMINATION OF REPORTING REQUIREMENTS

Pub. L. 108–203, title IV, §413, Mar. 2, 2004, 118 Stat. 529, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

''(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

''(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

''(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

''(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

''(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).''

Pub. L. 107–303, title III, §302(a), Nov. 27, 2002, 116 Stat. 2360, provided that:

''(a) IN GENERAL.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note; Public Law 104–66) does not apply to any report required to be submitted under any of the following provisions of law:

''(1) EFFECTS OF POLLUTION ON ESTUARIES OF THE UNITED STATES.—Section 104(n)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)).

''(2) IMPLEMENTATION OF GREAT LAKES WATER QUALITY AGREEMENT OF 1978.—Section 118(c)(10) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(10)).

''(3) COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN FOR LONG ISLAND SOUND.—Section 119(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(7)).

''(4) LEVEL B PLAN ON ALL RIVER BASINS.—Section 209(b) of the Federal Water Pollution Control Act (33 U.S.C. 1289(b)).

''(5) STATE REPORTS ON WATER QUALITY OF ALL NAVIGABLE WATERS.—Section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. 1315(b)).

''(6) EXEMPTIONS FROM WATER POLLUTION CONTROL REQUIREMENTS FOR EXECUTIVE AGENCIES.—Section 313(a) of the Federal Water Pollution Control Act (33 U.S.C. 1323(a)).

''(7) STATUS OF WATER QUALITY IN UNITED STATES LAKES.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)).

''(8) NATIONAL ESTUARY PROGRAM ACTIVITIES.—Section 320(j)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(j)(2)).

''(9) REPORTS ON CONTRACTS ENTERED INTO RELATING TO PROCUREMENT FROM VIOLATORS OF WATER QUALITY STANDARDS.—Section 508(e) of the Federal Water Pollution Control Act (33 U.S.C. 1368(e)).

''(10) NATIONAL REQUIREMENTS AND COSTS OF WATER POLLUTION CONTROL.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375).''

Pub. L. 107–295, title III, §322(b), Nov. 25, 2002, 116 Stat. 2103, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

''(1) COAST GUARD OPERATIONS AND EXPENDITURES.—Section 651 of title 14, United States Code.

''(2) SUMMARY OF MARINE CASUALTIES REPORTED DURING PRIOR FISCAL YEAR.—Section 6307(c) of title 46, United States Code.

''(3) USER FEE ACTIVITIES AND AMOUNTS.—Section 664 of title 46 [14], United States Code.

''(4) CONDITIONS OF PUBLIC PORTS OF THE UNITED STATES.—Section 308(c) of title 49, United States Code.

''(5) ACTIVITIES OF FEDERAL MARITIME COMMISSION.—Section 208 of the Merchant Marine Act, 1936 ([former] 46 App. U.S.C. 1118) [see 46 U.S.C. 306(a), 50111(a)].

''(6) ACTIVITIES OF INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—Section 7001(e) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(e)).''

Pub. L. 107–74, §1, Nov. 28, 2001, 115 Stat. 701, as amended by Pub. L. 110–69, title VII, §7024(a)(3), Aug. 9, 2007, 121 Stat. 689, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

''(1) Section 801(b) and (c) of the Department of Energy Organization Act (42 U.S.C. 7321(b) and (c)).

''(2) Section 822(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (42 U.S.C. 6687).

''(3) Section 7(a) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1106(a)).

''(4) Section 206 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476).

''(5) Section 404 of the Communications Satellite Act of 1962 ([former] 47 U.S.C. 744).

''(6) Section 205(a)(1) of the National Critical Materials Act of 1984 (30 U.S.C. 1804(a)(1)).

''(7) Section 17(c)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(2)).

''(8) Section 10(h) of the National Institute of Standards and Technology Act (15 U.S.C. 278(h)).

''(9) Section 212(f)(3) of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 3704b(f)(3)).

''(10) Section 11(g)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(g)(2)).

''(11) Section 5(d)(9) of the National Climate Program Act (15 U.S.C. 2904(d)(9)).

''(12) Section 7 of the National Climate Program Act (15 U.S.C. 2906).

''(13) Section 703 of the Weather Service Modernization Act (15 U.S.C. 313 note).

''(14) Section 118(d)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1268(d)(2)).

''(15) Section 304(d) of the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992 (49 U.S.C. 47508 note).

''(16) Section 2367(c) of title 10, United States Code.

''(17) Section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)).

''(18) Section 102(e)(7) of the Global Change Research Act of 1990 (15 U.S.C. 2932(e)(7)).

''(19) Section 5(b)(1)(C) and (D) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(1)(C) and (D)).

''(20) Section 11(e)(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(6)).

''(21) Section 2304(c)(7) of title 10, United States Code, but only to the extent of its application to the National Aeronautics and Space Administration.

''(22) Section 4(j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)).

''(23) Section 36(e) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c(e)).

''(24) Section 37 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885d).

''(25) Section 108 of the National Science Foundation Authorization Act for Fiscal Year 1986 (42 U.S.C. 1886).

''(26) Section 101(a)(2) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(a)(2)).

''(27) Section 3(a)(7) and (f) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(7) and (f)).

''(28) Section 7(a) of the National Science Foundation Authorization Act, 1977 (42 U.S.C. 1873 note).

''(29) Section 16 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2215).''

Pub. L. 106–569, title XI, §1102, Dec. 27, 2000, 114 Stat. 3029, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

''(1) Section 3 of the Employment Act of 1946 (15 U.S.C. 1022).

''(2) Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099).

''(3) Section 603 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3213).

''(4) Section 7(*o*)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(*o*)(1)).

''(5) Section 540(c) of the National Housing Act (12 U.S.C. 1735f–18(c)).

''(6) Paragraphs (2) and (6) of section 808(e) of the Civil Rights Act of 1968 (42 U.S.C. 3608(e)[(2), (6)]).

''(7) Section 1061 of the Housing and Community Development Act of 1992 (42 U.S.C. 4856).

''(8) Section 203(v) [now 203(w)] of the National Housing Act (12 U.S.C. 1709(v) [now 1709(w)]), as added by section 504 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3780).

''(9) Section 802 of the Housing Act of 1954 (12 U.S.C. 1701*o*).

''(10) Section 8 of the Department of Housing and Urban Development Act (42 U.S.C. 3536).

''(11) Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027).

''(12) Section 4(e)(2) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)(2)).

''(13) Section 205(g) of the National Housing Act ([former] 12 U.S.C. 1711(g)).

''(14) Section 701(c)(1) of the International Financial Institutions Act (22 U.S.C. 262d(c)(1)).

''(15) Paragraphs (1) and (2) of section 5302(c) of title 31, United States Code.

''(16) Section 18(f)(7) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(7)).

''(17) Section 333 of the Revised Statutes of the United States (12 U.S.C. 14).

''(18) Section 3(g) of the Home Owners' Loan Act (12 U.S.C. 1462a(g)).

''(19) Section 304 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 304) [now 40 U.S.C. 14310].

''(20) Sections 2(b)(1)(A), 8(a), 8(c) [there is no 8(c)], 10(g)(1), and 11(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A), 635g(a), 635g(c), 635i–3(g)[1], and 635i–5(c)).

''(21) Section 17(a) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)).

''(22) Section 13 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2292).

''(23) Section 2B(d) of the Federal Home Loan Bank Act ([former] 12 U.S.C. 1422b(d)).

''(24) Section 1002(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101–73] (12 U.S.C. 1811 note).

''(25) Section 8 of the Fair Credit and Charge Card Disclosure Act of 1988 [Pub. L. 100–583] (15 U.S.C. 1637 note).

''(26) Section 136(b)(4)(B) of the Truth in Lending Act (15 U.S.C. 1646(b)(4)(B)).

''(27) Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f).

''(28) Section 114 of the Truth in Lending Act (15 U.S.C. 1613).

''(29) The seventh undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 247).

''(30) The tenth undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 247a).

''(31) Section 815 of the Fair Debt Collection Practices Act (15 U.S.C. 1692m).

''(32) Section 102(d) of the Federal Credit Union Act (12 U.S.C. 1752a(d)).

''(33) Section 21B(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(i)).

''(34) Section 607(a) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 8106(a)).

''(35) Section 708(*l*) of the Defense Production Act of 1950 (50 U.S.C. App. 2158(*l*)).

''(36) Section 2546 of the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990 [Pub. L. 101–647] (28 U.S.C. 522 note).

''(37) Section 202(b)(8) of the National Housing Act (12 U.S.C. 1708(b)(8)).''

Pub. L. 106–554, §1(a)(4) [div. A, §1402], Dec. 21, 2000, 114 Stat. 2763, 2763A–214, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

''(1) Sections 1105(a), 1106(a) and (b), and 1109(a) of title 31, United States Code, and any other law relating to the budget of the United States Government.

''(2) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) [see Short Title note set out under section 900 of Title 2, The Congress].

''(3) Sections 202(e)(1) and (3) of the Congressional Budget Act of 1974 (2 U.S.C. 602(e)(1) and (3)).

''(4) Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 685(e)).''

Pub. L. 106–554, §1(a)(7) [title III, §301], Dec. 21, 2000, 114 Stat. 2763, 2763A–629, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

''(1) Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)).

''(2) Section 16(c) of the Foreign Trade Zones Act (19 U.S.C. 81p(c)).

''(3) The following provisions of the Tariff Act of 1930:

''(A) Section 330(c)(1) (19 U.S.C. 1330(c)(1)).

''(B) Section 607(c) (19 U.S.C. 1607(c)).

''(4) Section 5 of the International Coffee Agreement Act of 1980 ([former] 19 U.S.C. 1356n).

''(5) Section 351(a)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1981(a)(2)).

''(6) Section 502 of the Automotive Products Trade Act of 1965 (19 U.S.C. 2032).

''(7) Section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081).

''(8) The following provisions of the Trade Act of 1974 (19 U.S.C. 2101 et seq.):

''(A) Section 102(b)(4)(A)(ii)(I) (19 U.S.C. 2112(b)(4)(A)(ii)(I)).

''(B) Section 102(e)(1) (19 U.S.C. 2112(e)(1)).

''(C) Section 102(e)(2) (19 U.S.C. 2112(e)(2)).

''(D) Section 104(d) (19 U.S.C. 2114(d)).

''(E) Section 125(e) (19 U.S.C. 2135(e)).

''(F) Section 135(e)(1) (19 U.S.C. 2155(e)(1)).

''(G) Section 141(c) (19 U.S.C. 2171(c)).

''(H) Section 162 (19 U.S.C. 2212).

''(I) Section 163(b) (19 U.S.C. 2213(b)).

''(J) Section 163(c) (19 U.S.C. 2213(c)).

''(K) Section 203(b) (19 U.S.C. 2253(b)).

''(L) Section 302(b)(2)(C) (19 U.S.C. 2412(b)(2)(C)).

''(M) Section 303 (19 U.S.C. 2413).

''(N) Section 309 (19 U.S.C. 2419).
''(O) Section 407(a) (19 U.S.C. 2437(a)).
''(P) Section 502(f) (19 U.S.C. 2462(f)).
''(Q) Section 504 (19 U.S.C. 2464).

''(9) The following provisions of the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.):
''(A) Section 2(b) (19 U.S.C. 2503(b)).
''(B) Section 3(c) (19 U.S.C. 2504(c)).
''(C) Section 305(c) (19 U.S.C. 2515(c)).

''(10) Section 303(g)(1) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2602(g)(1)).

''(11) The following provisions of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.):
''(A) Section 212(a)(1)(A) (19 U.S.C. 2702(a)(1)(A)).
''(B) Section 212(a)(2) (19 U.S.C. 2702(a)(2)).

''(12) The following provisions of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2901 et seq.):
''(A) Section 1102 (19 U.S.C. 2902).
''(B) Section 1103 (19 U.S.C. 2903).
''(C) Section 1206(b) (19 U.S.C. 3006(b)).

''(13) Section 123(a) of the Customs and Trade Act of 1990 (Public Law 101–382) (19 U.S.C. 2083).

''(14) Section 243(b)(2) of the Caribbean Basin Economic Recovery Expansion Act of 1990 (Public Law 101–382) [104 Stat. 665].

''(15) The following provisions of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]:
''(A) Section 6103(p)(5).
''(B) Section 7608.
''(C) Section 7802(f)(3).
''(D) Section 8022(3).
''(E) Section 9602(a).

''(16) The following provisions relating to the revenue laws of the United States:
''(A) Section 1552(c) of the Tax Reform Act of 1986 [Pub. L. 99–514, 26 U.S.C. 7441 note] (100 Stat. 2753).
''(B) Section 231 of the Deficit Reduction Act of 1984 [Pub. L. 98–369] (26 U.S.C. 801 note).
''(C) Section 208 of the Tax Treatment Extension Act of 1977 [Pub. L. 95–615] (26 U.S.C. 911 note).
''(D) Section 7105 of the Technical and Miscellaneous Revenue Act of 1988 (45 U.S.C. 369).

''(17) Section 4008 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1308).

''(18) Section 426 of the Black Lung Benefits Act (30 U.S.C. 936(b)).

''(19) Section 7502(g) of title 31, United States Code.

''(20) The following provisions of the Social Security Act:
''(A) Section 215(i)(2)(C)(i) (42 U.S.C. 415(i)(2)(C)(i)).
''(B) Section 221(i)(2) (42 U.S.C. 421(i)(2)).
''(C) Section 221(i)(3) (42 U.S.C. 421(i)(3)).
''(D) Section 233(e)(1) (42 U.S.C. 433(e)(1)).
''(E) Section 452(a)(10) (42 U.S.C. 652(a)(10)).
''(F) Section 452(g)(3)(B) (42 U.S.C. 652(g)(3)(B)).
''(G) Section 506(a)(1) (42 U.S.C. 706(a)[(1)]).
''(H) Section 908 (42 U.S.C. 1108).
''(I) Section 1114(f) (42 U.S.C. 1314(f)).
''(J) Section 1120 (42 U.S.C. 1320).
''(K) Section 1161 (42 U.S.C. 1320c–10).
''(L) Section 1875(b) (42 U.S.C. 1395*ll*(b)).
''(M) Section 1881 (42 U.S.C. 1395rr).
''(N) Section 1882 (42 U.S.C. 1395ss(f)(2)).

''(21) Section 104(b) of the Social Security Independence and Program Improvements Act of 1994 [Pub. L. 103–296] (42 USC [sic] 904 note).

''(22) Section 10 of the Railroad Retirement Act of 1937 [probably means section 7 of the Railroad Retirement Act of 1974] (45 U.S.C. 231f).

''(23) The following provisions of the Railroad Retirement Act of 1974:
''(A) Section 22(a)(1) (45 U.S.C. 231u(a)(1)).
''(B) Section 22(b)(1) (45 U.S.C. 231u(b)(1)).

''(24) Section 502 of the Railroad Retirement Solvency Act of 1983 (45 U.S.C. 231f–1).

''(25) Section 47121(c) of title 49, United States Code.

''(26) The following provisions of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–182 [101 Stat. 1330]):
''(A) Section 4007(c)(4) (42 U.S.C. 1395ww note).
''(B) Section 4079 (42 U.S.C. 1395mm note).
''(C) Section 4205 (42 U.S.C. 1395i–3 note).
''(D) Section 4215 (42 U.S.C. 1396r note).

''(27) The following provisions of the Inspector General Act of 1978 [5 U.S.C. App.] (Public Law 95–452):
''(A) Section 5(b).
''(B) Section 5(d).

''(28) The following provisions of the Public Health Service Act:
''(A) In section 308(a) (42 U.S.C. 242m(a)), subparagraphs (A), (B), (C), and (D) of paragraph (1).
''(B) Section 403 (42 U.S.C. 283).

''(29) Section 404 of the Health Services and Centers Amendments of 1978 (42 U.S.C. 242p) (Public Law 95–626).

''(30) The following provisions of the Older Americans Act of 1965:
''(A) Section 206(d) (42 U.S.C. 3017(d)).
''(B) Section 207 (42 U.S.C. 3018).

''(31) Section 308 of the Age Discrimination Act of 1975 (42 U.S.C. 6106a(b)).

''(32) Section 509(c)(3) [509(3)] of the Americans with Disabilities Act 0f [of] 1990 (42 U.S.C. 12209(c)(3) [12209(3)]).

''(33) Section 4207(f) of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101–508] (42 U.S.C. 1395b–1 note).''

Pub. L. 106–476, title I, § 1463, Nov. 9, 2000, 114 Stat. 2173, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:
''(1) Section 163 of the Trade Act of 1974 (19 U.S.C. 2213).
''(2) Section 181 of the Trade Act of 1974 (19 U.S.C. 2241).''

Pub. L. 106–419, title IV, § 403(a), Nov. 1, 2000, 114 Stat. 1863, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following: sections 503(c), 529, 541(c), 542(c), 3036, and 7312(d) of title 38, United States Code.''

Pub. L. 106–197, § 1, May 2, 2000, 114 Stat. 246, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:
''(1) The following sections of title 18, United States Code: sections 2519(3), 2709(e), 3126, and 3525(b).
''(2) The following sections of title 28, United States Code: sections 522, 524(c)(6), 529, 589a(d), and 594.
''(3) Section 3718(c) of title 31, United States Code.
''(4) Section 9 of the Child Protection Act of 1984 [Pub. L. 98–292] (28 U.S.C. 522 note).
''(5) Section 8 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997f).
''(6) The following provisions of the Omnibus Crime Control and Safe Streets Act of 1968: sections 102(b) (42 U.S.C. 3712(b)), 520 (42 U.S.C. 3766), 522 (42 U.S.C. 3766b), and 810 (42 U.S.C. 3789e).
''(7) The following provisions of the Immigration and Nationality Act: sections 103 (8 U.S.C. 1103), 207(c)(3) (8 U.S.C. 1157(c)(3)), 412(b) (8 U.S.C. 1522(b)), and 413 (8 U.S.C. 1523), and subsections (h), (*l*), (*o*), (q), and (r) of section 286 (8 U.S.C. 1356).
''(8) Section 3 of the International Claims Settlement Act of 1949 (22 U.S.C. 1622).
''(9) Section 9 of the War Claims Act of 1948 (50 U.S.C. App. 2008).
''(10) Section 13(c) of the Act of September 11, 1957 (8 U.S.C. 1255b(c)).
''(11) Section 203(b) of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989c–2(b)).
''(12) Section 801(e) of the Immigration Act of 1990 (29 U.S.C. 2920(e)).
''(13) Section 401 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1364).

''(14) Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f).

''(15) Section 201(b) of the Privacy Protection Act of 1980 (42 U.S.C. 2000aa–11(b)).

''(16) Section 609U of the Justice Assistance Act of 1984 ([former] 42 U.S.C. 10509).

''(17) Section 13(a) of the Classified Information Procedures Act (18 U.S.C. App.).

''(18) Section 1004 of the Civil Rights Act of 1964 (42 U.S.C. 2000g–3).

''(19) Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414).

''(20) Section 11 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 621).

''(21) The following provisions of the Foreign Intelligence Surveillance Act of 1978: sections 107 (50 U.S.C. 1807) and 108 (50 U.S.C. 1808).

''(22) Section 102(b)(5) of the Department of Justice and Related Agencies Appropriations Act, 1993 [Pub. L. 102–395] (28 U.S.C. 533 note).''

Pub. L. 106–181, title I, § 163, Apr. 5, 2000, 114 Stat. 91, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

''(1) Section 44501 of title 49, United States Code.

''(2) Section 47103 of such title.

''(3) Section 47131 of such title.''

Pub. L. 106–113, div. B, § 1000(a)(7) [div. A, title II, § 209(e)], Nov. 29, 1999, 113 Stat. 1536, 1501A–423, as amended by Pub. L. 110–246, title III, § 3001(c), June 18, 2008, 122 Stat. 1821, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

''(1) Section 1205 of the International Security and Development Cooperation Act of 1985 (Public Law 99–83; 22 U.S.C. 2346 note) (relating to annual reports on economic conditions in Egypt, Israel, Turkey, and Portugal).

''(2) Section 1307(f)(1)(A) of the International Financial Institutions Act [22 U.S.C. 262m–7(f)(1)(A)] (Public Law 95–118) (relating to an assessment of the environmental impact of proposed multilateral development bank actions).

''(3) Section 118(f) of the Foreign Assistance Act of 1961 (Public Law 87–195; 22 U.S.C. 2151p–1 [(f)]) (relating to the protection of tropical forests).

''(4) Section 586J(c)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513 [50 U.S.C. 1701 note]) (relating to sanctions taken by other nations against Iraq).

''(5) Section 3 of the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1; 105 Stat. 3 [50 U.S.C. 1541 note]) (relating to the status of efforts to obtain Iraqi compliance with United Nations Security Council resolutions).

''(6) Section 124 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 22 U.S.C. 2680 note) (relating to expenditures for emergencies in the diplomatic and consular service).

''(7) Section 620C(c) of the Foreign Assistance Act of 1961 (Public Law 87–195; 22 U.S.C. 2373(c)) (relating to progress made toward the conclusion of a negotiated solution to the Cyprus problem).

''(8) Section 533(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 19991 [1991] (Public Law 101–513 [104 Stat. 2013]) (relating to international natural resource management initiatives).

''(9) Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 22 U.S.C. 5352) (relating to foreign treatment of United States financial institutions).

''(10) Section 1702 of the International Financial Institutions Act (Public Law 95–118; 22 U.S.C. 262r-1) (relating to operating summaries of the multilateral development banks).

''(11) Section 1303(c) of the International Financial Institutions Act (Public Law 95–118; 22 U.S.C. 262m-2(c)) (relating to international environmental assistance programs).

''(12) Section 1701(a) of the International Financial Institutions Act (Public Law 95–118; 22 U.S.C. 262r) (relating to United States participation in international financial institutions).

''(13) Section 163(a) of the Trade Act of 1974 (Public Law 93–618; 19 U.S.C. 2213) (relating to the trade agreements program and national trade policy agenda).

''(14) Section 8 of the Export-Import Bank Act (Public Law 79–173; 12 U.S.C. 635g) (relating to Export-Import Bank activities).

''(15) Section 407(f) of the Food for Peace Act (Public Law 83–480; 7 U.S.C. 1736a) (relating to Public Law 480 programs and activities).

''(16) Section 239(c) of the Foreign Assistance Act of 1961 (Public Law 87–195; 22 U.S.C. 2199(c)) (relating to OPIC audit report).

''(17) Section 504(i) of the National Endowment for Democracy Act (Public Law 98–164; 22 U.S.C. 4413(i)) (relating to the activities of the National Endowment for Democracy).

''(18) Section 5(b) of the Japan-United States Friendship Act (Public Law 94–118; 22 U.S.C. 2904(b)) (relating to Japan-United States Friendship Commission activities).''

Pub. L. 106–65, div. A, title X, § 1031, Oct. 5, 1999, 113 Stat. 749, provided that: ''Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 [Pub. L. 104–66] (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

''(1) The following sections of title 10, United States Code: sections 113, 115a, 116, 139(f) [now 139(g)], 221, 226, 401(d), 662(b), 946, [former] 1464(c), [former] 2006(e)(3), 2010, 2011(e), 2391(c), 2431(a), 2432, 2457(d), 2461(g), 2537, 2662(b), 2706, 2859, 2861, 2902(g)(2), 4542(g)(2), 7424(b), 7425(b), 7431(c), 10541, 12302(d), and 16137.

''(2) Section 1121(f) of the National Defense Authorization Act for Fiscal Year 1988 and 1989 (Public Law 100–180; 10 U.S.C. 113 note).

''(3) Section 1405 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 924).

''(4) Section 1411(b) of the Barry Goldwater Scholarship and Excellence in Education Act (20 U.S.C. 4710(b)).

''(5) Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 [Pub. L. 102–190] (22 U.S.C. 2751 note).

''(6) Section 30A(d) of the Arms Export Control Act (22 U.S.C. 2770a(d)).

''(7) Sections 1516(f) and 1518(c) of the Armed Forces Retirement Home Act of 1991 (Public Law 101–510; 24 U.S.C. 416(f), 418(c)).

''(8) Sections 3554(e)(2) and [former] 9503(a) of title 31, United States Code.

''(9) Section 300110(b) of title 36, United States Code.

''(10) Sections 301a(f) and 1008 of title 37, United States Code.

''(11) Section 8111(f) of title 38, United States Code.

''(12) Section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b)) [now 40 U.S.C. 121(b)].

''(13) Section 3732 of the Revised Statutes, popularly known as the 'Food and Forage Act' (41 U.S.C. 11).

''(14) Section 101(b)(6) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)(6)).

''(15) Section 1436(e) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; [former] 42 U.S.C. 2121 note).

''(16) Section 165 of the Energy Policy and Conservation Act (42 U.S.C. 6245).

''(17) Section 603(e) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 ([former] 42 U.S.C. 6683(e)).

''(18) Section 822(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (42 U.S.C. 6687(b)).

''(19) Section 208 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979 (42 U.S.C. 7271 [now 50 U.S.C. 2771]).

''(20) Section 3134 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7274c [now 50 U.S.C. 2587]).

''(21) Section 3135 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (42 U.S.C. 7274g).

''(22) Section 12 of the Act of March 9, 1920 (popularly known as the 'Suits in Admiralty Act') (46 App. U.S.C. 752) [now 46 U.S.C. 30918].

''(23) Sections 208, 901(b)(2), and 1211 of the Merchant Marine Act, 1936 ([former] 46 App. U.S.C. 1118, 1241(b)(2), 1291) [see 46 U.S.C. 306(a), 50111(a), 55305(d)].

''(24) Sections 11 and 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2, 98h–5).

''(25) Section 108 of the National Security Act of 1947 (50 U.S.C. 404a).

''(26) Section 4 of the Act entitled 'An Act to authorize the making, amending, and modification of contracts to facilitate the national defense', approved August 28, 1958 ([former] 50 U.S.C. 1434).

''(27) Section 1412(g) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)).

''(28) Section 3 of the Authorization for Use of Military Force Against Iraq Resolution [Pub. L. 102–1] (50 U.S.C. 1541 note).

''(29) Sections 202(d) and 401(c) of the National Emergencies Act (50 U.S.C. 1622(d), 1641(c)).

''(30) Section 10(g) of the Military Selective Service Act (50 U.S.C. App. 460(g)).

''(31) Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

''(32) Section 703(g) of the Military Construction Authorization Act, 1982 (Public Law 97–99; 95 Stat. 1376).

''(33) Section 704 of the Military Construction Authorization Act, 1982 (Public Law 97–99; 95 Stat. 1377).

''(34) Section 113(b) of the National Defense Authorization Act for Fiscal Year 1990 and 1991 (Public Law 101–189; 103 Stat. 1373).''

Pub. L. 104–66, title III, §3003, Dec. 21, 1995, 109 Stat. 734, as amended by Pub. L. 106–113, div. B, §1000(a)(5) [title II, §236], Nov. 29, 1999, 113 Stat. 1536, 1501A–302; Pub. L. 110–314, title II, §203(b), Aug. 14, 2008, 122 Stat. 3040, provided that:

''(a) TERMINATION.—

''(1) IN GENERAL.—Subject to the provisions of paragraph (2) of this subsection and subsection (d), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, May 15, 2000.

''(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

''(A) the Inspector General Act of 1978 (5 U.S.C. App.); or

''(B) the Chief Financial Officers Act of 1990 (Public Law 101–576) [see Short Title of 1990 Amendment note set out under section 501 of this title], including provisions enacted by the amendments made by that Act.

''(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act [Dec. 21, 1995] a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

''(c) LIST OF REPORTS.—The list referred to under subsection (a) is the list prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress under clause 2 of rule III [now cl. 2(b) of rule II] of the Rules of the House of Representatives (House Document No. 103–7).

''(d) SPECIFIC REPORTS EXEMPTED.—Subsection (a)(1) shall not apply to any report required under—

''(1) section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n);

''(2) section 306 of that Act (22 U.S.C. 2226);

''(3) section 489 of that Act (22 U.S.C. 2291h);

''(4) section 502B of that Act (22 U.S.C. 2304);

''(5) section 634 of that Act (22 U.S.C. 2394);

''(6) section 406 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2414a);

''(7) section 25 of the Arms Export Control Act (22 U.S.C. 2765);

''(8) section 28 of that Act (22 U.S.C. 2768);

''(9) section 36 of that Act (22 U.S.C. 2776);

''(10) section 6 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3425);

''(11) section 104 of the FREEDOM Support Act (22 U.S.C. 5814);

''(12) section 508 of that Act (22 U.S.C. 5858);

''(13) section 4 of the War Powers Resolution (50 U.S.C. 1543);

''(14) section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703);

''(15) section 14 of the Export Administration Act of 1979 (50 U.S.C. App. 2413);

''(16) section 207 of the International Economic Policy Act of 1972 (Public Law 92–412; 86 Stat. 648) [former 22 U.S.C. 2846];

''(17) section 4 of Public Law 93–121 (87 Stat. 448) [former 22 U.S.C. 2846];

''(18) section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

''(19) section 704 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5474);

''(20) section 804 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 72);

''(21) section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f);

''(22) section 2 of the Act of September 21, 1950 (Chapter 976; 64 Stat. 903) [22 U.S.C. 262a];

''(23) section 3301 of the Panama Canal Act of 1979 (22 U.S.C. 3871);

''(24) section 2202 of the Export Enhancement Act of 1988 ([former] 15 U.S.C. 4711);

''(25) section 1504 of Public Law 103–160 (10 U.S.C. 402 note);

''(26) section 502 of the International Security and Development Coordination Act of 1985 (22 U.S.C. 2349aa–7);

''(27) section 23 of the Act of August 1, 1956 (Chapter 841 [probably should be section 515(b)(2) of Public Law 95–105]; 22 U.S.C. 2694(2));

''(28) section 5(c)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(c)(5));

''(29) section 14 of the Export Administration Act of 1979 (50 U.S.C. App. 2413);

''(30) section 50 of Public Law 87–297 (22 U.S.C. 2590);

''(31) section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a);

''(32) section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)); or

''(33) section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469).''

AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS

Pub. L. 103–356, title III, §301, Oct. 13, 1994, 108 Stat. 3412, provided that:

''(a) PURPOSE.—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete re-

porting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

''(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

''(c) RECOMMENDATIONS.—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

''(d) CONSULTATION.—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.''

### [§ 1114. Repealed. Pub. L. 103–355, title II, § 2454(c)(2), Oct. 13, 1994, 108 Stat. 3326]

Section, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 916, related to budget information on consulting services.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

### § 1115. Performance plans

(a) In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

(1) establish performance goals to define the level of performance to be achieved by a program activity;

(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (b);

(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.[1]

(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

(5) provide a basis for comparing actual program results with the established performance goals; and

(6) describe the means to be used to verify and validate measured values.

(b) If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

(1) include separate descriptive statements of—

(A)(i) a minimally effective program, and

(ii) a successful program, or

(B) such alternative as authorized by the Director of the Office of Management and Budget,

with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

(c) For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

(d) An agency may submit with its annual performance plan an appendix covering any portion of the plan that—

(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(2) is properly classified pursuant to such Executive order.

(e) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).

(g) For purposes of this section and sections 1116 through 1119, and sections 9703[2] and 9704 the term—

(1) ''agency'' has the same meaning as such term is defined under section 306(f) of title 5;

(2) ''outcome measure'' means an assessment of the results of a program activity compared to its intended purpose;

(3) ''output measure'' means the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

(4) ''performance goal'' means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

(5) ''performance indicator'' means a particular value or characteristic used to measure output or outcome;

(6) ''program activity'' means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

[1] So in original. The period probably should be a semicolon.

[2] See References in Text note below.

(7) ''program evaluation'' means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.

(Added Pub. L. 103–62, §4(b), Aug. 3, 1993, 107 Stat. 287; amended Pub. L. 107–296, title XIII, §1311(a), Nov. 25, 2002, 116 Stat. 2289; Pub. L. 108–136, div. A, title XIV, §1421(b), Nov. 24, 2003, 117 Stat. 1667.)

REFERENCES IN TEXT

Section 9703, referred to in subsec. (g), probably means the section 9703 added by section 5(a) of Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 289.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136 substituted ''section 1105(a)(28)'' for ''section 1105(a)(29)''.

2002—Subsec. (a)(3). Pub. L. 107–296, §1311(a)(1), added par. (3) and struck out former par. (3) which read as follows: ''briefly describe the operational processes, skills and technology, and the human, capital, information, or other resources required to meet the performance goals;''.

Subsecs. (f), (g). Pub. L. 107–296, §1311(a)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

CONSTRUCTION

Section 10 of Pub. L. 103–62 provided that: ''No provision or amendment made by this Act [see Short Title of 1993 Amendment note set out under section 1101 of this title] may be construed as—

''(1) creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person who is not an officer or employee of the United States acting in such capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act; or

''(2) superseding any statutory requirement, including any requirement under section 553 of title 5, United States Code.''

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSES

Section 2 of Pub. L. 103–62 provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) waste and inefficiency in Federal programs undermine the confidence of the American people in the Government and reduces the Federal Government's ability to address adequately vital public needs;

''(2) Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance; and

''(3) congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results.

''(b) PURPOSES.—The purposes of this Act [see Short Title of 1993 Amendment note set out under section 1101 of this title] are to—

''(1) improve the confidence of the American people in the capability of the Federal Government, by systematically holding Federal agencies accountable for achieving program results;

''(2) initiate program performance reform with a series of pilot projects in setting program goals, measuring program performance against those goals, and reporting publicly on their progress;

''(3) improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction;

''(4) help Federal managers improve service delivery, by requiring that they plan for meeting program objectives and by providing them with information about program results and service quality;

''(5) improve congressional decisionmaking by providing more objective information on achieving statutory objectives, and on the relative effectiveness and efficiency of Federal programs and spending; and

''(6) improve internal management of the Federal Government.''

CONGRESSIONAL OVERSIGHT

Section 8(a) of Pub. L. 103–62 provided that: ''Nothing in this Act [see Short Title of 1993 Amendment note set out under section 1101 of this title] shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a performance goal. Any such action shall have the effect of superseding that goal in the plan submitted under section 1105(a)(29) [now 1105(a)(28)] of title 31, United States Code.''

GAO REPORT

Pub. L. 103–62, §8(b), Aug. 3, 1993, 107 Stat. 295, required the Comptroller General to report to Congress, not later than June 1, 1997, on the implementation of Pub. L. 103–62, including compliance by Federal agencies beyond those participating as pilot projects under sections 1118 and 9704 of this title.

STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT TRAINING

Section 9 of Pub. L. 103–62 provided that: ''The Office of Personnel Management shall, in consultation with the Director of the Office of Management and Budget and the Comptroller General of the United States, develop a strategic planning and performance measurement training component for its management training program and otherwise provide managers with an orientation on the development and use of strategic planning and program performance measurement.''

EX. ORD. NO. 13450. IMPROVING GOVERNMENT PROGRAM PERFORMANCE

Ex. Ord. No. 13450, Nov. 13, 2007, 72 F.R. 64519, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 305 and 306 of title 5, sections 1115, 1116, and 9703 of title 31, and chapter 28 of title 39, United States Code, and to improve the effectiveness and efficiency of the Federal Government and promote greater accountability of that Government to the American people, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the Federal Government to spend taxpayer dollars effectively, and more effectively each year. Agencies shall apply taxpayer resources efficiently in a manner that maximizes the effectiveness of Government programs in serving the American people.

SEC. 2. *Definitions*. As used in this order:

(a) ''agency'' means:

(i) an executive agency as defined in section 105 of title 5, United States Code, other than the Government Accountability Office; and

(ii) the United States Postal Service and the Postal Regulatory Commission;

(b) ''agency Performance Improvement Officer'' means an employee of an agency who is a member of the Senior Executive Service or equivalent service, and who is designated by the head of the agency to carry out the duties set forth in section 5 of this order.

SEC. 3. *Duties of Heads of Agencies*. To assist in implementing the policy set forth in section 1 of this order, the head of each agency shall, with respect to each program administered in whole or in part by the agency:

(a) approve for implementation:

(i) clear annual and long-term goals defined by objectively measurable outcomes; and

(ii) specific plans for achieving the goals, including:

(A) assignments to specified agency personnel of:

(1) the duties necessary to achieve the goals; and

(2) the authority and resources necessary to fulfill such duties;

(B) means to measure:

(1) progress toward achievement of the goals; and

(2) efficiency in use of resources in making that progress; and

(C) mechanisms for ensuring continuous accountability of the specified agency personnel to the head of the agency for achievement of the goals and efficiency in use of resources in achievement of the goals;

(b) assist the President, through the Director of the Office of Management and Budget (Director), in making recommendations to the Congress, including budget and appropriations recommendations, that are justified based on objective performance information and accurate estimates of the full costs of achieving the annual and long-term goals approved under subsection (a)(i) of this section; and

(c) ensure that agency Internet websites available to the public include regularly updated and accurate information on the performance of the agency and its programs, in a readily useable and searchable form, that sets forth the successes, shortfalls, and challenges of each program and describes the agency's efforts to improve the performance of the program.

SEC. 4. *Additional Duties of the Director of the Office of Management and Budget*. (a) To assist in implementing the policy set forth in section 1 of this order, the Director shall issue instructions to the heads of agencies concerning:

(i) the contents, and schedule for approval, of the goals and plans required by section 3 of this order; and

(ii) the availability to the public in readily accessible and comprehensible form on the agency's Internet website (or in the Federal Register for any agency that does not have such a website), of the information approved by the head of each agency under section 3 of this order and other information relating to agency performance.

(b) Instructions issued under subsection (a) of this section shall facilitate compliance with applicable law, presidential guidance, and Office of Management and Budget circulars and shall be designed to minimize duplication of effort and to assist in maximizing the efficiency and effectiveness of agencies and their programs.

SEC. 5. *Duties of Agency Performance Improvement Officers*. Subject to the direction of the head of the agency, each agency Performance Improvement Officer shall:

(a) supervise the performance management activities of the agency, including:

(i) development of the goals, specific plans, and estimates for which section 3 of this order provides; and

(ii) development of the agency's strategic plans, annual performance plans, and annual performance reports as required by law;

(b) advise the head of the agency, with respect to a program administered in whole or in part by the agency, whether:

(i) goals proposed for the approval of the head of the agency under section 3(a)(i) of this order are:

(A) sufficiently aggressive toward full achievement of the purposes of the program; and

(B) realistic in light of authority and resources assigned to the specified agency personnel referred to in section 3(a)(ii)(A) of this order with respect to that program; and

(ii) means for measurement of progress toward achievement of the goals are sufficiently rigorous and accurate;

(c) convene the specified agency personnel referred to in section 3(a)(ii)(A) of this order, or appropriate subgroups thereof, regularly throughout each year to:

(i) assess performance of each program administered in whole or in part by the agency; and

(ii) consider means to improve the performance and efficiency of such program;

(d) assist the head of the agency in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes; and

(e) report to the head of the agency on the implementation within the agency of the policy set forth in section 1 of this order.

SEC. 6. *Establishment and Operation of Performance Improvement Council*. (a) The Director shall establish, within the Office of Management and Budget for administrative purposes only, a Performance Improvement Council (Council), consistent with this order.

(b) The Council shall consist exclusively of:

(i) the Deputy Director for Management of the Office of Management and Budget, who shall serve as Chair;

(ii) such agency Performance Improvement Officers, as determined by the Chair; and

(iii) such other full-time or permanent part-time employees of an agency, as determined by the Chair with the concurrence of the head of the agency concerned.

(c) The Chair or the Chair's designee, in implementing subsection (d) of this section, shall convene and preside at the meetings of the Council, determine its agenda, direct its work, and establish and direct subgroups of the Council, as appropriate to deal with particular subject matters, that shall consist exclusively of members of the Council.

(d) To assist in implementing the policy set forth in section 1 of this order, the Council shall:

(i) develop and submit to the Director, or when appropriate to the President through the Director, at times and in such formats as the Chair may specify, recommendations concerning:

(A) performance management policies and requirements; and

(B) criteria for evaluation of program performance;

(ii) facilitate the exchange among agencies of information on performance management, including strategic and annual planning and reporting, to accelerate improvements in program performance;

(iii) coordinate and monitor a continuous review by heads of agencies of the performance and management of all Federal programs that assesses the clarity of purpose, quality of strategic and performance planning and goals, management excellence, and results achieved for each agency's programs, with the results of these assessments and the evidence on which they are based made available to the public on or through the Internet website referred to in subsection (d)(iv);

(iv) to facilitate keeping the public informed, and with such assistance of heads of agencies as the Director may require, develop an Internet website that provides the public with information on how well each agency performs and that serves as a comprehensive source of information on:

(A) current program performance; and

(B) the status of program performance plans and agency Performance and Accountability Reports; and

(C) consistent with the direction of the head of the agency concerned after consultation with the Director, any publicly available reports by the agency's Inspector General concerning agency program performance;

(v) monitor implementation by agencies of the policy set forth in section 1 of this order and report thereon from time to time as appropriate to the Director, or when appropriate to the President through the Director, at such times and in such formats as the Chair may specify, together with any recommendations of the Council for more effective implementation of such policy;

(vi) at the request of the head of an agency, unless the Chair declines the request, promptly review and provide advice on a proposed action by that agency to implement the policy set forth in section 1 of this order; and

(vii) obtain information and advice, as appropriate, in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation, from:

(A) State, local, territorial, and tribal officials; and

(B) representatives of entities or other individuals.

(e)(i) To the extent permitted by law, the Office of Management and Budget shall provide the funding and administrative support the Council needs, as determined by the Director, to implement this section; and

(ii) the heads of agencies shall provide, as appropriate and to the extent permitted by law, such information and assistance as the Chair may request to implement this section.

SEC. 7. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law (including laws and executive orders relating to the protection of information from disclosure) and subject to the availability of appropriations.

(c) In implementing this order, the Director of National Intelligence shall perform the functions assigned to the Director of National Intelligence by the National Security Act of 1947, as amended (50 U.S.C. 401 *et seq.*), consistent with section 1018 of the Intelligence Reform and Terrorism Prevention Act (Public Law 108–458), and other applicable laws.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

## § 1116. Program performance reports

(a) Not later than 150 days after the end of an agency's fiscal year, the head of each agency shall prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

(b)(1) Each program performance report shall set forth the performance indicators established in the agency performance plan under section 1115, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

(2) If performance goals are specified in an alternative form under section 1115(b), the results of such program shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall—

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(b)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703[1] of this title;

(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and

(6) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(e)(1) Except as provided in paragraph (2), each program performance report shall contain an assessment by the agency head of the completeness and reliability of the performance data included in the report. The assessment shall describe any material inadequacies in the completeness and reliability of the performance data, and the actions the agency can take and is taking to resolve such inadequacies.

(2) If a program performance report is incorporated into a report submitted under section 3516, the requirements of section 3516(e) shall apply in lieu of paragraph (1).

(f) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of program performance reports under this section shall be performed only by Federal employees.

(Added Pub. L. 103–62, § 4(b), Aug. 3, 1993, 107 Stat. 288; amended Pub. L. 106–531, § 5(a)(1), (b), Nov. 22, 2000, 114 Stat. 2539; Pub. L. 107–296, title XIII, § 1311(b), Nov. 25, 2002, 116 Stat. 2290.)

REFERENCES IN TEXT

Section 9703, referred to in subsec. (d)(4), probably means the section 9703 added by section 5(a) of Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 289.

AMENDMENTS

2002—Subsec. (d)(5), (6). Pub. L. 107–296 added par. (5) and redesignated former par. (5) as (6).

2000—Subsec. (a). Pub. L. 106–531, § 5(a)(1), substituted ''Not later than 150 days after the end of an agency's fiscal year,'' for ''No later than March 31, 2000, and no later than March 31 of each year thereafter,''.

Subsec. (e). Pub. L. 106–531, § 5(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''An agency head may include all program performance information required annually under this section in an annual financial statement required under section 3515 if any such statement is submitted to the Congress no later than March 31 of the applicable fiscal year.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

CONSTRUCTION

No provision or amendment made by Pub. L. 103–62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity,

[1] See References in Text note below.

and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a note under section 1115 of this title.

SPECIAL RULE FOR FISCAL YEARS 2000 AND 2001

Pub. L. 106–531, § 5(a)(2), Nov. 22, 2000, 114 Stat. 2539, provided that: ''Notwithstanding subsection (a) of section 1116 of title 31, United States Code (as amended by paragraph (1) of this subsection), an agency head may submit a report under such subsection not later than 180 days after the end of that agency's fiscal year, with respect to fiscal years 2000 and 2001.''

### § 1117. Exemption

The Director of the Office of Management and Budget may exempt from the requirements of sections 1115 and 1116 of this title and section 306 of title 5, any agency with annual outlays of $20,000,000 or less.

(Added Pub. L. 103–62, § 4(b), Aug. 3, 1993, 107 Stat. 289.)

CONSTRUCTION

No provision or amendment made by Pub. L. 103–62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a note under section 1115 of this title.

### § 1118. Pilot projects for performance goals

(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than ten agencies as pilot projects in performance measurement for fiscal years 1994, 1995, and 1996. The selected agencies shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall undertake the preparation of performance plans under section 1115, and program performance reports under section 1116, other than section 1116(c), for one or more of the major functions and operations of the agency. A strategic plan shall be used when preparing agency performance plans during one or more years of the pilot period.

(c) No later than May 1, 1997, the Director of the Office of Management and Budget shall submit a report to the President and to the Congress which shall—

(1) assess the benefits, costs, and usefulness of the plans and reports prepared by the pilot agencies in meeting the purposes of the Government Performance and Results Act of 1993;

(2) identify any significant difficulties experienced by the pilot agencies in preparing plans and reports; and

(3) set forth any recommended changes in the requirements of the provisions of Government Performance and Results Act of 1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, 1119 and 9703[1] of this title, and this section.

(Added Pub. L. 103–62, § 6(a), Aug. 3, 1993, 107 Stat. 290.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (c)(1), (3), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted sections 1115 to 1119, 9703, and 9704 of this title, section 306 of Title 5, Government Organization and Employees, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of this title, and enacted provisions set out as notes under sections 1101 and 1115 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of this title and Tables.

Section 9703, referred to in subsec. (c)(3), probably means the section 9703 added by section 5(a) of Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 289.

CONSTRUCTION

No provision or amendment made by Pub. L. 103–62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a note under section 1115 of this title.

### § 1119. Pilot projects for performance budgeting

(a) The Director of the Office of Management and Budget, after consultation with the head of each agency shall designate not less than five agencies as pilot projects in performance budgeting for fiscal years 1998 and 1999. At least three of the agencies shall be selected from those designated as pilot projects under section 1118, and shall also reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall cover the preparation of performance budgets. Such budgets shall present, for one or more of the major functions and operations of the agency, the varying levels of performance, including outcome-related performance, that would result from different budgeted amounts.

(c) The Director of the Office of Management and Budget shall include, as an alternative budget presentation in the budget submitted under section 1105 for fiscal year 1999, the performance budgets of the designated agencies for this fiscal year.

(d) No later than March 31, 2001, the Director of the Office of Management and Budget shall transmit a report to the President and to the Congress on the performance budgeting pilot projects which shall—

(1) assess the feasibility and advisability of including a performance budget as part of the annual budget submitted under section 1105;

(2) describe any difficulties encountered by the pilot agencies in preparing a performance budget;

(3) recommend whether legislation requiring performance budgets should be proposed and the general provisions of any legislation; and

[1] See References in Text note below.

(4) set forth any recommended changes in the other requirements of the Government Performance and Results Act of 1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, and 9703[1] of this title, and this section.

(e) After receipt of the report required under subsection (d), the Congress may specify that a performance budget be submitted as part of the annual budget submitted under section 1105.

(Added Pub. L. 103–62, § 6(c), Aug. 3, 1993, 107 Stat. 291.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (d)(4), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted sections 1115 to 1119, 9703, and 9704 of this title, section 306 of Title 5, Government Organization and Employees, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of this title, and enacted provisions set out as notes under sections 1101 and 1115 of this title. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of this title and Tables.

Section 9703, referred to in subsec. (d)(4), probably means the section 9703 added by section 5(a) of Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 289.

CONSTRUCTION

No provision or amendment made by Pub. L. 103–62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a note under section 1115 of this title.

## CHAPTER 13—APPROPRIATIONS

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AMENDMENTS

1998—Pub. L. 105–339, § 7(b)(2), Oct. 31, 1998, 112 Stat. 3189, added item 1354.

1990—Pub. L. 101–280, § 4(b)(2), May 4, 1990, 104 Stat. 157, redesignated item 1352 ''Acceptance of travel and related expenses from non-Federal sources'' as 1353.

1989—Pub. L. 101–194, title III, § 302(b), Nov. 30, 1989, 103 Stat. 1746, added item 1352 ''Acceptance of travel and related expenses from non-Federal sources''.

Pub. L. 101–121, title III, § 319(a)(2), Oct. 23, 1989, 103 Stat. 756, added item 1352 ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions''.

1986—Pub. L. 99–550, § 1(b), Oct. 27, 1986, 100 Stat. 3070, substituted ''Passenger carrier use'' for ''Passenger motor vehicle and aircraft use'' in item 1344.

### SUBCHAPTER I—GENERAL

### § 1301. Application

(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

(b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(c) An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation—

(1) is for rivers and harbors, lighthouses, public buildings, or the pay of the Navy and Marine Corps; or

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

(d) A law may be construed to make an appropriation out of the Treasury or to authorize making a contract for the payment of money in excess of an appropriation only if the law specifically states that an appropriation is made or that such a contract may be made.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 917.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1301(a) ..... | 31:628. | R.S. § 3678. |
| 1301(b) ..... | 31:717. | Mar. 4, 1915, ch. 147, § 4, 38 Stat. 1161. |

[1] See References in Text note below.

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1301(c) ..... | 31:718. | Aug. 24, 1912, ch. 355, §7, 37 Stat. 487; Mar. 3, 1919, ch. 99, §6(last sentence), 40 Stat. 1309. |
| 1301(d) ..... | 31:627. | June 30, 1906, ch. 3914, §9, 34 Stat. 764. |

In subsection (a), the word ''Appropriations'' is substituted for ''sums appropriated for the various branches of expenditure in the public service'' to eliminate unnecessary words. The words ''they are respectively'' and ''and for no others'' are omitted as surplus. The words ''except as otherwise provided by law'' are substituted for ''All'' in section 3678 of the Revised Statutes to inform the reader that there are exceptions to the source provisions restated in the subsection.

In subsection (c), before clause (1), the words ''specific or indefinite'' are omitted as surplus. The words ''made subsequent to August 24, 1912'' are omitted as executed. The words ''without reference to a fiscal year'' are omitted as surplus. In clause (1), the words ''is for'' are substituted for ''belongs to one of the following four classes'' to eliminate unnecessary words. The words ''last specifically named in and excepted from the operation of the provisions of section 713 of this title'' and the words related to section 5 of the Act of June 20, 1874 (31:713), in section 6(last sentence) of the Act of March 3, 1919 (ch. 99, 40 Stat. 1309), are omitted because section 5 was repealed by section 3 of the Act of July 6, 1949 (ch. 299, 63 Stat. 407).

In subsection (d), the words ''passed after June 30, 1906'' are omitted as executed.

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–359, §1, July 13, 1984, 98 Stat. 402, provided: ''That this Act [amending section 1322 of this title] may be cited as the 'Postal Savings System Statute of Limitations Act'.''

TRANSFERS FROM APPROPRIATION ACCOUNTS; SALARIES OF TEMPORARILY REASSIGNED EMPLOYEES

Pub. L. 105–277, div. A, §101(f) [title V, §510], Oct. 21, 1998, 112 Stat. 2681–337, 2681–385, as amended by Pub. L. 106–31, title V, §5005(*l*), May 21, 1999, 113 Stat. 111, provided that: ''Notwithstanding any other provision of law, hereafter—

''(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation Act, or in the Act establishing the program or activity for which funds are contained in this Act [see Tables for classification];

''(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purpose for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

''(3) no funds provided under this Act or subsequent Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Acts shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–78, title V, §511, Nov. 13, 1997, 111 Stat. 1516.

Pub. L. 104–208, div. A, title I, §101(e) [title V, §509], Sept. 30, 1996, 110 Stat. 3009–233, 3009–269.

Pub. L. 104–134, title I, §101(d) [title V, §509], Apr. 26, 1996, 110 Stat. 1321–211, 1321–244; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–333, title V, §515, Sept. 30, 1994, 108 Stat. 2574.

EX. ORD. NO. 13457. PROTECTING AMERICAN TAXPAYERS FROM GOVERNMENT SPENDING ON WASTEFUL EARMARKS

Ex. Ord. No. 13457, Jan. 29, 2008, 73 F.R. 6417, provided:

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. *Policy*. It is the policy of the Federal Government to be judicious in the expenditure of taxpayer dollars. To ensure the proper use of taxpayer funds that are appropriated for Government programs and purposes, it is necessary that the number and cost of earmarks be reduced, that their origin and purposes be transparent, and that they be included in the text of the bills voted upon by the Congress and presented to the President. For appropriations laws and other legislation enacted after the date of this order, executive agencies should not commit, obligate, or expend funds on the basis of earmarks included in any non-statutory source, including requests in reports of committees of the Congress or other congressional documents, or communications from or on behalf of Members of Congress, or any other non-statutory source, except when required by law or when an agency has itself determined a project, program, activity, grant, or other transaction to have merit under statutory criteria or other merit-based decisionmaking.

SEC. 2. *Duties of Agency Heads*. (a) With respect to all appropriations laws and other legislation enacted after the date of this order, the head of each agency shall take all necessary steps to ensure that:

(i) agency decisions to commit, obligate, or expend funds for any earmark are based on the text of laws, and in particular, are not based on language in any report of a committee of Congress, joint explanatory statement of a committee of conference of the Congress, statement of managers concerning a bill in the Congress, or any other non-statutory statement or indication of views of the Congress, or a House, committee, Member, officer, or staff thereof;

(ii) agency decisions to commit, obligate, or expend funds for any earmark are based on authorized, transparent, statutory criteria and merit-based decision making, in the manner set forth in section II of OMB Memorandum M–07–10, dated February 15, 2007, to the extent consistent with applicable law; and

(iii) no oral or written communications concerning earmarks shall supersede statutory criteria, competitive awards, or merit-based decisionmaking.

(b) An agency shall not consider the views of a House, committee, Member, officer, or staff of the Congress with respect to commitments, obligations, or expenditures to carry out any earmark unless such views are in writing, to facilitate consideration in accordance with section 2(a)(ii) above. All written communications from the Congress, or a House, committee, Member, officer, or staff thereof, recommending that funds be committed, obligated, or expended on any earmark shall be made publicly available on the Internet by the receiving agency, not later than 30 days after receipt of such communication, unless otherwise specifically directed by the head of the agency, without delegation, after consultation with the Director of the Office of Management and Budget, to preserve appropriate confidentiality between the executive and legislative branches.

(c) Heads of agencies shall otherwise implement within their respective agencies the policy set forth in section 1 of this order, consistent with such instructions as the Director of the Office of Management and Budget may prescribe.

(d) The head of each agency shall upon request provide to the Director of the Office of Management and Budget information about earmarks and compliance with this order.

SEC. 3. *Definitions*. For purposes of this order:

(a) The term ''agency'' means an executive agency as defined in section 105 of title 5, United States Code, and the United States Postal Service and the Postal Regulatory Commission, but shall exclude the Government Accountability Office; and

(b) the term ''earmark'' means funds provided by the Congress for projects, programs, or grants where the purported congressional direction (whether in statutory text, report language, or other communication) circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the executive branch to manage its statutory and constitutional responsibilities pertaining to the funds allocation process.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

### § 1302. Determining amounts appropriated

Except as specifically provided by law, the total amount appropriated in an appropriation law is determined by adding up the specific amounts or rates appropriated in each paragraph of the law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 917.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1302 ..... | 31:670. | May 28, 1896, ch. 252, § 1(par. immediately before heading ''Treasury Department''), 29 Stat. 148. |

The words ''by adding up'' are substituted for ''by the correct footing up'' for clarity.

### § 1303. Effect of changes in titles of appropriations

Expenditures for a particular object or purpose authorized by a law (and referred to in that law by the specific title previously used for the appropriation item in the appropriation law concerned) may be made from a corresponding appropriation item when the specific title is changed or eliminated from a later appropriation law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 917.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1303 ..... | 31:581(note). | Sept. 12, 1950, ch. 946, § 302(b), 64 Stat. 844. |

### § 1304. Judgments, awards, and compromise settlements

(a) Necessary amounts are appropriated to pay final judgments, awards, compromise settlements, and interest and costs specified in the judgments or otherwise authorized by law when—

(1) payment is not otherwise provided for;

(2) payment is certified by the Secretary of the Treasury; and

(3) the judgment, award, or settlement is payable—

(A) under section 2414, 2517, 2672, or 2677 of title 28;

(B) under section 3723 of this title;

(C) under a decision of a board of contract appeals; or

(D) in excess of an amount payable from the appropriations of an agency for a meritorious claim under section 2733 or 2734 of title 10, section 715 of title 32, or section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473).

(b)(1) Interest may be paid from the appropriation made by this section—

(A) on a judgment of a district court, only when the judgment becomes final after review on appeal or petition by the United States Government, and then only from the date of filing of the transcript of the judgment with the Secretary of the Treasury through the day before the date of the mandate of affirmance; or

(B) on a judgment of the Court of Appeals for the Federal Circuit or the United States Court of Federal Claims under section 2516(b) of title 28, only from the date of filing of the transcript of the judgment with the Secretary of the Treasury through the day before the date of the mandate of affirmance.

(2) Interest payable under this subsection in a proceeding reviewed by the Supreme Court is not allowed after the end of the term in which the judgment is affirmed.

(c)(1) A judgment or compromise settlement against the Government shall be paid under this section and sections 2414, 2517, and 2518[1] of title 28 when the judgment or settlement arises out of an express or implied contract made by—

(A) the Army and Air Force Exchange Service;

(B) the Navy Exchanges;

(C) the Marine Corps Exchanges;

(D) the Coast Guard Exchanges; or

(E) the Exchange Councils of the National Aeronautics and Space Administration.

(2) The Exchange making the contract shall reimburse the Government for the amount paid by the Government.

(Pub. L. 97–258, §§ 1, 2(m)(2), Sept. 13, 1982, 96 Stat. 917, 1062; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104–316, title II, § 202(m), Oct. 19, 1996, 110 Stat. 3843.)

[1] See References in Text note below.

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1304(a) ..... | 31:724a(1st sentence words before 1st proviso). | July 27, 1956, ch. 748, § 1302(1st sentence), 70 Stat. 694; Aug. 30, 1961, Pub. L. 87–187, § 3, 75 Stat. 416; July 18, 1966, Pub. L. 89–506, § 6, 80 Stat. 307; July 23, 1970, Pub. L. 91–350, § 1(c), 84 Stat. 449; restated May 4, 1977, Pub. L. 95–26, § 101(2d par. under heading ''Claims and Judgments''), 91 Stat. 96; Mar. 7, 1978, Pub. L. 95–240, § 201, 92 Stat. 116; Nov. 1, 1978, Pub. L. 95–563, § 14(c), 92 Stat. 2390; Apr. 2, 1982, Pub. L. 97–164, title I, § 155, title III, § 302(c), 96 Stat. 47, 56. |
| 1304(b) ..... | 28:2516(b)(less 1st sentence words after last comma). 31:724a(1st sentence 1st, 2d provisos). | |
| 1304(c) ..... | 31:724a(1st sentence last proviso) | |

In subsection (a), before clause (1), the words ''out of any money in the Treasury not otherwise appropriated'' are omitted as surplus. The words ''awards rendered by the Indian Claims Commission'' are omitted as executed because under 25:70v the Commission was dissolved and all of its outstanding cases were transferred to the Court of Claims. Under 25:70v–3, judgments on cases transferred to the Court of Claims are judgments under 28:2517 and 2518 and are therefore included under clause (3)(A) of the subsection.

In subsection (b), the text of 28:2516(b)(less 1st sentence words after last comma) is omitted as superseded by 31:724a.

In subsection (b)(1)(A), the words ''through the day before the date'' are substituted for ''to the date'' as being more precise.

REFERENCES IN TEXT

Section 2518 of title 28, referred to in subsec. (c)(1), was repealed by Pub. L. 97–164, title I, § 139(*l*), Apr. 2, 1982, 96 Stat. 43.

AMENDMENTS

1996—Subsecs. (a)(2), (b)(1)(A), (B). Pub. L. 104–316 substituted ''Secretary of the Treasury'' for ''Comptroller General''.

1992—Subsec. (b)(1)(B). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Subsec. (b)(1)(A). Pub. L. 97–258, § 2(m)(2)(A), struck out ''under section 2411(b) of title 28'' after ''district court''.

Subsec. (b)(1)(B). Pub. L. 97–258, § 2(m)(2)(B), substituted ''Court of Appeals for the Federal Circuit or the United States Claims Court'' for ''Court of Claims''.

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 OF 1982 AMENDMENT

Section 2(m) of Pub. L. 97–258 provided that the amendment made by that section is effective Oct. 1, 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.

## § 1305. Miscellaneous permanent appropriations

Necessary amounts are appropriated for the following:

(1) to pay the proceeds of the personal estate of a United States citizen dying abroad to the legal representative of the deceased on proper demand and proof.

(2) to pay interest on the public debt under laws authorizing payment.

(3) to pay proceeds from derelict and salvage cases adjudged by the courts of the United States to salvors.

(4) to make payments required under contracts made under section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) for the payment of interest on obligations guaranteed by the Secretary of Housing and Urban Development under section 108.

(5) to make payments required under contracts made under section 103(b) of the Housing Act of 1949 (42 U.S.C. 1453(b)) for projects or programs for which amounts had been committed before January 1, 1975, and for which amounts have not been appropriated.

(6) to pay the interest on the fund derived from the bequest of James Smithson, for the construction of buildings and expenses of the Smithsonian Institution, at the rates determined under section 5590 of the Revised Statutes (20 U.S.C. 54).

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(7) to make payments required under contracts made under section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c).

COLLEGE HOUSING GRANTS

(8) to make payments required under contracts made under title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.).

RENT SUPPLEMENT PROGRAM

(9) to make payments required under contracts under section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s).

HOMEOWNERSHIP AND RENTAL HOUSING ASSISTANCE

(10) to make payments required under contracts under sections 235 and 236, respectively, of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z–1).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 918; Pub. L. 97–452, § 1(4), Jan. 12, 1983, 96 Stat. 2467; Pub. L. 98–371, title I, § 101, July 18, 1984, 98 Stat. 1220.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1305 ..... | 31:711(1)–(3), (11a)–(23). | R.S. § 3689(less last 3 pars. on p. 725 related to redemption of stamps, debentures and other charges, and debentures and drawbacks, 2d par. on p. 726 related to repayment of excess of deposits, 3d–7th pars. on p. 726 related to refunding duties on goods destroyed, marine hospital establishment, refunding duties, refunding proceeds of goods seized and sold, and refunding proceeds of unclaimed merchandise); June 20, 1874, ch. 328, § 4(less words between 1st and 2d semicolons), 18 Stat. 109; Mar. 3, 1875, ch. 129, § 1(6th par. 3d sentence under heading ''War Department''), 18 Stat. 359; June 19, 1878, ch. 329, § 1(par. immediately before heading ''Office of the Attorney General''), 20 Stat. 205; May 26, 1908, ch. 198, § 1(last par. on p. 295), 35 Stat. 295; June 25, 1910, ch. 384, § 8(words before semicolon), 36 Stat. 773; Oct. 18, 1972, Pub. L. 92–500, § 12(p), 86 Stat. 902; Aug. 22, 1974, Pub. L. 93–383, §§ 108(i), 117(a), 88 Stat. 649, 653; Oct. 12, 1977, Pub. L. 95–128, § 108(2), 91 Stat. 1123. |

In the section, the words ''out of any moneys in the Treasury not otherwise appropriated'' and ''and such appropriations shall be deemed permanent annual appropriations'' are omitted as surplus.

In clause (2), the text of section 4(words after 2d semicolon) of the Act of June 20, 1874 (ch. 328, 18 Stat. 109), is omitted as expired.

The text of 31:711(3) is omitted as superseded by the source provisions restated in section 1322 of the revised title.

The text of 31:711(11a) is omitted because the Environmental Financing Authority expired on June 30, 1975.

The text of 31:711(12) is omitted as superseded by 31:725s(a)(1st proviso) and 31:725s(a)(59).

The text of 31:711(13) is omitted as obsolete because provisions relating to horses and property lost in military service were repealed by section 1 of the Act of December 16, 1930 (ch. 14, 46 Stat. 1028), and section 3 of the Act of May 29, 1945 (ch. 135, 59 Stat. 225).

The text of 31:711(14) is omitted as superseded by 31:240–243.

The text of 31:711(16) is omitted as obsolete because of the repeal of the permanent appropriation for surveying within land grants (reimbursable) by 31:725(a) and (b)(13).

The text of 31:711(17) is omitted as superseded by the repeal of the appropriation account ''Five Percent Funds to States'' by 31:725c(a) and (b)(34).

The text of 31:711(18) is omitted as superseded by 31:725b(a) and (b)(8).

The text of 31:711(19) is omitted as superseded by 31:725q(a) and (b)(14).

The text of 31:711(20) is omitted as superseded by section 1(1st par. on p. 447) of the Act of March 3, 1875 (ch. 132, 18 Stat. 447), and section 1(last par. on p. 197) of the Act of August 15, 1876 (ch. 289, 19 Stat. 197).

1983 ACT

This amends 31:1305(6) to conform to the Smithsonian Institution charter as amended by section 1 of the Act of June 22, 1982 (Pub. L. 97–199, 96 Stat. 121).

REFERENCES IN TEXT

Section 103(b) of the Housing Act of 1949 (42 U.S.C. 1453(b)), referred to in par. (5), was omitted from the Code pursuant to section 5316 of Title 42, The Public Health and Welfare, which terminated the authority to make grants or loans under title I of that Act (42 U.S.C. 1450 et seq.) after Jan. 1, 1975.

The Housing Act of 1950, referred to in par. (8), is act Apr. 20, 1950, ch. 94, 64 Stat. 48, as amended. Title IV of the Housing Act of 1950, which was classified generally to subchapter IX (§ 1749 et seq.) of chapter 13 of Title 12, Banks and Banking, was repealed by Pub. L. 99–498, title VII, § 702, Oct. 17, 1986, 100 Stat. 1545. For complete classification of this Act to the Code, see Short Title of 1950 Amendment note set out under section 1701 of Title 12 and Tables.

Section 101 of the Housing and Urban Development Act of 1965, as amended, referred to in par. (9), is section 101 of Pub. L. 89–117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of Title 12, and amended sections 1451 and 1465 of this title.

AMENDMENTS

1984—Pars. (7) to (10). Pub. L. 98–371 added pars. (7) to (10).

1983—Par. (6). Pub. L. 97–452 substituted provisions relating to payment of the interest on the fund derived from the bequest of James Smithson, for the construction of buildings and the expenses of the Smithsonian Institution, at rates determined under section 5590 of the Revised Statutes, for provisions relating to payment for construction of buildings and expenses of the Smithsonian Institution, at 6 percent on the fund derived from the bequest of James Smithson.

## § 1306. Use of foreign credits

(a) IN GENERAL.—Foreign credits (including currencies) owed to or owned by the United States may be used by any agency for any purpose for which appropriations are made for the agency for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), but only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency.

(b) EXCEPTION TO REIMBURSEMENT REQUIREMENT.—Credits described in subsection (a) that are received as exchanged allowances, or as the proceeds of the sale of personal property, may be used in whole or partial payment for the acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 918; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 612(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–355.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1306 ..... | 31:724. | July 15, 1952, ch. 758, § 1415, 66 Stat. 662. |

The words ''are not available for expenditure by agencies except as provided annually in general appropriation laws'' are substituted for ''will not be available for expenditure by agencies of the United States after June 30, 1953, except as may be provided for annually in appropriation Acts'' because of section 101 of the revised title.

AMENDMENTS

1996—Pub. L. 104–208 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(f) [title VI, § 612(b)] of Pub. L. 104–208 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Sept. 30, 1996] and shall apply thereafter.''

APPROPRIATIONS OF EXCESS CURRENCIES

Pub. L. 102–391, title V, § 566, Oct. 6, 1992, 106 Stat. 1680, provided that: ''The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] by any provision of law enacted after the date of enactment of this Act [Oct. 6, 1992] unless such provision makes specific reference to this section.''

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 101–513, title V, § 570, Nov. 5, 1990, 104 Stat. 2041.

Pub. L. 101–167, title V, § 583, Nov. 21, 1989, 103 Stat. 1251.

## § 1307. Public building construction

Amounts appropriated to construct public buildings remain available until completion of the work. When a building is completed and outstanding liabilities for the construction are paid, balances remaining shall revert immediately to the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 918.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1307 ..... | 31:682. | June 23, 1874, ch. 476, § 1, 18 Stat. 275. |

The words before the proviso in the Act of June 23, 1874 (ch. 476, 18 Stat. 275), are omitted as obsolete.

## § 1308. Telephone and metered services

Charges for telephone and metered services (such as gas, electricity, water, and steam) for a time period beginning in one fiscal year or allotment period and ending in another fiscal year or allotment period may be charged against the appropriation or allotment current at the end of the time period covered by the service.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 919.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1308 ..... | 31:668a. | Apr. 27, 1937, ch. 143, 50 Stat. 119; restated Apr. 26, 1939, ch. 103, 53 Stat. 624. |

The words ''On and after April 27, 1937'' are omitted as executed. The words ''Charges for telephone and metered services'' are substituted for ''in making payments for commodities or services the quantity of which is determined by metered readings . . . and for telephone services'' to eliminate unnecessary words. The words ''another fiscal year or allotment period'' are substituted for ''another'', and the words ''time period covered by the service'' are substituted for ''such period'', for clarity.

## § 1309. Social security tax

Amounts made available for the compensation of officers and employees of the United States Government may be used to pay taxes imposed on an agency as an employer under chapter 21 of the Internal Revenue Code of 1986 (26 U.S.C. 3101 et seq.).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 919; 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)* |
|---|---|---|
| 1309 ..... | 31:699a. | July 15, 1952, ch. 758, § 1410, 66 Stat. 661. |

The word ''Amounts'' is substituted for ''Appropriations and funds'' to eliminate unnecessary words. The words ''salaries, wages, or'' are omitted as being included in ''compensation''.

AMENDMENTS

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

## § 1310. Appropriations for private organizations

(a) The Secretary of the Treasury shall credit an appropriation for a private organization to the appropriate fiscal official of the organization. The credit shall be carried on the accounts of—

(1) the Treasury; or

(2) a designated depositary of the United States Government (except a national bank).

(b) The fiscal official may pay an amount out of the appropriation only on a check of the fiscal official—

(1) payable to the order of the person to whom payment is to be made; and

(2) that states the specific purpose for which the amount is to be applied.

(c)(1) The fiscal official may pay an amount of less than $20 out of the appropriation on a check—

(A) payable to the order of the fiscal official; and

(B) that states the amount is to be applied to small claims.

(2) The fiscal official shall provide the Secretary or the designated depositary on which the check is drawn with a certified list of the claims. The list shall state the kind and amount of each claim and the name of each claimant.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 919.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1310(a) ..... | 31:721(words before 14th comma). | June 23, 1874, ch. 455, § 1(par. immediately before heading ''Smithsonian Institution''), 18 Stat. 216. |
| 1310(b) ..... | 31:721(words between 14th comma and proviso). | |
| 1310(c) ..... | 31:721(proviso). | |

In subsection (a), before clause (1), the words ''by warrant'' are omitted as unnecessary because of chapter 33 of the revised title. The word ''appropriation'' is substituted for ''moneys appropriated'' for consistency in the revised title. The words ''for a private organization'' are substituted for ''for the aid, use, support, or benefit of any charitable, industrial, or other association, institution, or corporation'' to eliminate unnecessary words. The word ''official'' is substituted for ''offi-

cer'' for consistency in the revised title. In clause (1), 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 ''or of an assistant treasurer'' in section 1 of the Act of June 23, 1874, are omitted as superseded by section 1(1st par. under heading ''Independent Treasury'') of the Act of May 29, 1920 (ch. 214, 41 Stat. 254).

In subsection (b), before clause (1), the words ''The fiscal official may pay an amount out of the appropriation'' are substituted for ''shall be paid out'' for clarity. In clause (1), the words ''for services, materials, or any other purpose'' are omitted as unnecessary. In clause (2), the words ''in writing'' are omitted as surplus. The word ''purpose'' is substituted for ''object or purpose'' to eliminate unnecessary words.

In subsections (b)(2) and (c), the word ''amount'' is substituted for ''the avails thereof'' for clarity.

In subsection (c)(1), before clause (A), the words ''an amount of less than $20 out of the appropriation'' are substituted for ''payments are to be made under $20'' for clarity. In clause (B), the words ''in writing on the check'' are omitted as unnecessary.

In subsection (c)(2), the word ''Secretary'' is substituted for ''Treasurer'' because of the source provisions restated in section 321(c) of the revised title.

## SUBCHAPTER II—TRUST FUNDS AND REFUNDS

### § 1321. Trust funds

(a) The following are classified as trust funds:

(1) Philippine special fund (customs duties).

(2) Philippine special fund (internal revenue).

(3) Unclaimed condemnation awards, Department of the Treasury.

(4) Naval reservation, Olangapo civil fund.

(5) Armed Forces Retirement Home Trust Fund.

(6) Return to deported aliens of passage money collected from steamship companies.

(7) Vocational rehabilitation, special fund.

(8) Library of Congress gift fund.

(9) Library of Congress trust fund, investment account.

(10) Library of Congress trust fund, income from investment account.

(11) Library of Congress trust fund, permanent loan.

(12) Relief and rehabilitation, Longshore and Harbor Workers' Compensation Act.

(13) Cooperative work, Forest Service.

(14) Wages and effects of American seamen, Department of Commerce.

(15) Pension money, Saint Elizabeths Hospital.

(16) Personal funds of patients, Saint Elizabeths Hospital.

(17) National Park Service, donations.

(18) Purchase of lands, national parks, donations.

(19) Extension of winter-feed facilities of game animals of Yellowstone National Park, donations.

(20) Indian moneys, proceeds of labor, agencies, schools, and so forth.

(21) Funds of Federal prisoners.

(22) Commissary funds, Federal prisons.

(23) Pay of the Navy, deposit funds.

(24) Pay of Marine Corps, deposit funds.

(25) Pay of the Army, deposit fund.

(26) Preservation birthplace of Abraham Lincoln.

(27) Funds contributed for flood control, Mississippi River, its outlets and tributaries.

(28) Funds contributed for flood control, Sacramento River, California.

(29) Effects of deceased employees, Department of the Treasury.

(30) Money and effects of deceased patients, Public Health Service.

(31) Effects of deceased employees, Department of Commerce.

(32) Topographic survey of the United States, contributions.

(33) National Institutes of Health, gift fund.

(34) National Institutes of Health, conditional gift fund.

(35) Patients' deposits, United States Marine Hospital, Carville, Louisiana.

(36) Estates of deceased personnel, Department of the Army.

(37) Effects of deceased employees, Department of the Interior.

(38) Fredericksburg and Spotsylvania County Battlefields memorial fund.

(39) Petersburg National Military Park fund.

(40) Gorgas memorial laboratory quotas.

(41) Contributions to International Boundary Commission, United States and Mexico.

(42) Salvage proceeds, American vessels.

(43) Wages due American seamen.

(44) Federal Industrial Institution for Women, contributions for chapel.

(45) General post fund, National Homes, Department of Veterans Affairs.

(46) Repatriation of American seamen.

(47) Expenses, public survey work, general.

(48) Expenses, public survey work, Alaska.

(49) Funds contributed for improvement of roads, bridges, and trails, Alaska.

(50) Protective works and measures, Lake of the Woods and Rainy River, Minnesota.

(51) Washington redemption fund.

(52) Permit fund, District of Columbia.

(53) Unclaimed condemnation awards, National Capital Park and Planning Commission, District of Columbia.

(54) Unclaimed condemnation awards, Rock Creek and Potomac Parkway Commission, District of Columbia.

(55) Miscellaneous trust fund deposits, District of Columbia.

(56) Surplus fund, District of Columbia.

(57) Relief and rehabilitation, District of Columbia Workmen's Compensation Act.

(58) Inmates' fund, workhouse and reformatory, District of Columbia.

(59) International Center for Middle Eastern-Western Dialogue Trust Fund.

(60) Chamber Music Auditorium, Library of Congress.

(61) Bequest of Gertrude Hubbard.

(62) Puerto Rico special fund (Internal Revenue).

(63) Miscellaneous trust funds, Department of State.

(64) Funds contributed for improvement of (name of river or harbor).

(65) Funds advanced for improvement of (name of river or harbor).

(66) Funds contributed for Indian projects.

(67) Miscellaneous trust funds of Indian tribes.

(68) Ship's stores profits, Navy.

(69) Completing Surveys within Railroad Land Grants.

(70) Memorial to Women of World War, contributions.

(71) Funds contributed for Memorial to John Ericsson.

(72) American National Red Cross Building, contributions.

(73) Estate of decedents, Department of State, Trust Fund.

(74) Funds due Incompetent Beneficiaries, Department of Veterans Affairs.

(75) To promote the Education of the Blind (principal).

(76) Paving Government Road across Fort Sill Military Reservation, Okla.

(77) Bequest of William F. Edgar, Museum and Library, office of Surgeon General of the Army.

(78) Funds Contributed for Flood Control (name of river, harbor, or project).

(79) Matured obligations of the District of Columbia.

(80) To promote the education of the blind (interest).

[(81) Repealed. Pub. L. 101–510, div. A, title XV, § 1533(c)(1)(A)(ii), Nov. 5, 1990, 104 Stat. 1735.]

(82) Post-Vietnam Era Veterans Education Account, Department of Veterans Affairs.

(83) United States Government life insurance fund, Department of Veterans Affairs.

(84) Estates of deceased soldiers, United States Army.

(85) Teachers Retirement Fund Deductions, District of Columbia.

(86) Teachers Retirement Fund, Government Reserves, District of Columbia.

(87) Expenses of Smithsonian Institution Trust Fund (principal).

(88) Civil Service Retirement and Disability Fund.

(89) Canal Zone Retirement and Disability Fund.

(90) Foreign Service Retirement and Disability Fund.

(91) Violent Crime Reduction Trust Fund.

(b)(1) Amounts (except amounts received by the Comptroller of the Currency and the Federal Deposit Insurance Corporation) that are analogous to the funds named in subsection (a) of this section and are received by the United States Government as trustee shall be deposited in an appropriate trust fund account in the Treasury. Except as provided in paragraph (2), amounts accruing to these funds are appropriated to be disbursed in compliance with the terms of the trust.

(2) Expenditures from the following trust funds may be made only under annual appropriations and only if the appropriations are specifically authorized by law:

(A) Armed Forces Retirement Home Trust Fund.

(B) Fisher House Trust Fund, Department of the Army.

(C) Fisher House Trust Fund, Department of the Air Force.

(D) Fisher House Trust Fund, Department of the Navy.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 919; Pub. L. 98–426, § 27(d)(2), Sept. 28, 1984, 98 Stat. 1654; Pub. L. 101–189, div. A, title III, § 341(a), Nov. 29, 1989, 103 Stat. 1419; Pub. L. 101–510, div. A, title XV, § 1533(c)(1), Nov. 5, 1990, 104 Stat. 1735; Pub. L. 102–54, § 13(*l*)(1), June 13, 1991, 105 Stat. 277; Pub. L. 103–322, title XXXI, § 310001(d), Sept. 13, 1994, 108 Stat. 2103; Pub. L. 104–106, div. A, title IX, § 914(c), Feb. 10, 1996, 110 Stat. 413; Pub. L. 104–201, div. A, title X, § 1008(c), Sept. 23, 1996, 110 Stat. 2633; Pub. L. 105–261, div. A, title IX, § 906(f)(2), Oct. 17, 1998, 112 Stat. 2096; Pub. L. 108–199, div. B, title VI, § 633(f), Jan. 23, 2004, 118 Stat. 101.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1321(a) ..... | 31:725s(a)(1st sentence, cls. (1)–(84)), (c). | June 26, 1934, ch. 756, § 20(less (a)(last sentence last proviso)), 48 Stat. 1233; June 15, 1943, ch. 125, §§ 1(a), 2(a), 57 Stat. 152, 153; Oct. 15, 1976, Pub. L. 94–502, § 407, 90 Stat. 2397. |
| 1321(b) ..... | 31:725s(a)(2d sentence, last sentence 1st, 2d provisos). | |

In the section, the cross-references to subsection (b) in the source provisions being restated are assumed to be references to clauses (1)–(84) of subsection (a) because the source provisions contain no subsection (b).

In subsection (a), the words ''appearing on the books of the Government'' and ''on the books of the Treasury'' are omitted as surplus.

In subsection (b), the words ''effective July 1, 1935'' and the 2d proviso are omitted as executed.

REFERENCES IN TEXT

The Longshore and Harbor Workers' Compensation Act, referred to in subsec. (a)(12), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

The International Boundary Commission, United States and Mexico, referred to in subsec. (a)(41), was redesignated the International Boundary and Water Commission, United States and Mexico, by the Water Treaty of 1944.

The National Capital Park and Planning Commission, referred to in subsec. (a)(53), was abolished and its functions transferred to the National Capital Planning Commission by section 9 of act June 6, 1924, ch. 270, as added by act July 19, 1952, ch. 949, § 1, 66 Stat. 790, which was classified to section 71h of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as section 8711(f) of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

The Rock Creek and Potomac Parkway Commission, referred to in subsec. (a)(54), was abolished and its functions transferred to the Office of National Parks, Buildings, and Reservations, Department of the Interior, by Ex. Ord. No. 6166, § 2, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees.

The District of Columbia Workmen's Compensation Act, referred to in subsec. (a)(57), probably means the District of Columbia Unemployment Compensation Act, act Aug. 28, 1935, ch. 794, 49 Stat. 946, as amended, which is not classified to the Code.

AMENDMENTS

2004—Subsec. (a)(59). Pub. L. 108–199 added par. (59).

1998—Subsec. (a)(92) to (94). Pub. L. 105–261 struck out pars. (92) to (94) which read as follows:

''(92) Fisher House Trust Fund, Department of the Army.

''(93) Fisher House Trust Fund, Department of the Air Force.

''(94) Fisher House Trust Fund, Department of the Navy.''

1996—Subsec. (a)(92), (93). Pub. L. 104–106, § 914(c)(1), added pars. (92) and (93).

Subsec. (a)(94). Pub. L. 104–201, § 1008(c)(1), added par. (94).

Subsec. (b). Pub. L. 104–106, § 914(c)(2), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), amounts accruing to these funds'' for ''Amounts accruing to these funds (except to the trust fund 'Armed Forces Retirement Home Trust Fund')'', struck out ''Expenditures from the trust fund 'Armed Forces Retirement Home Trust Fund' shall be made only under annual appropriations and only if the appropriations are specifically authorized by law.'' after second sentence, and added par. (2).

Subsec. (b)(2)(D). Pub. L. 104–201, § 1008(c)(2), added subpar. (D).

1994—Subsec. (a)(91). Pub. L. 103–322 added par. (91).

1991—Subsec. (a)(45), (74), (82), (83). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'', wherever appearing.

1990—Subsec. (a)(5). Pub. L. 101–510, § 1533(c)(1)(A)(i), substituted ''Armed Forces Retirement Home Trust Fund'' for ''Personal funds of deceased inmates, Naval Home''.

Subsec. (a)(59), (81). Pub. L. 101–510, § 1533(c)(1)(A)(ii), struck out pars. (59) ''Soldiers' Home, permanent fund.'' and (81) ''Soldiers' Home, interest account.''

Subsec. (b). Pub. L. 101–510, § 1533(c)(1)(B), substituted ''Armed Forces Retirement Home Trust Fund'' for ''Soldiers' Home, Permanent Fund'' in two places.

1989—Subsec. (b). Pub. L. 101–189 substituted ''annual appropriations and only if the appropriations are specifically authorized by law.'' for ''annual appropriations. Those appropriations are authorized to be made.''

1984—Subsec. (a)(12). Pub. L. 98–426 substituted ''Longshore'' for ''Longshoremen's''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title IX, § 906(f)(3), Oct. 17, 1998, 112 Stat. 2096, provided that: ''The amendments made by this subsection [amending this section and repealing section 2221 of Title 10, Armed Forces] shall take effect 90 days after the date of the enactment of this Act [Oct. 17, 1998].''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 341(b) of Pub. L. 101–189 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to appropriations for the operation of the United States Soldiers' and Airmen's Home [now Armed Forces Retirement Home—Washington] made for fiscal years after fiscal year 1990.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98–426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

TRUST FUNDS FOR INDIVIDUAL INDIANS

Section 725s of former Title 31 (now this section) was modified by act June 25, 1936, ch. 814, 49 Stat. 1928, providing that it shall not be applicable to funds held in trust for individual Indians, associations of individual Indians, or for Indian corporations chartered under sections 461, 462, 463, 464, 465, 466 to 470, 471, 472, 473, 474, 475, 476 to 478, and 479 of Title 25, Indians.

## § 1322. Payments of unclaimed trust fund amounts and refund of amounts erroneously deposited

(a) On September 30 of each year, the Secretary of the Treasury shall transfer to the Treasury trust fund receipt account ''Unclaimed Moneys of Individuals Whose Whereabouts are Unknown'' that part of the balance of a trust fund account named in section 1321(a)(1)–(82) of this title or an analogous trust fund established under section 1321(b) of this title that has been in the fund for more than one year and represents money belonging to individuals whose whereabouts are unknown. Subsequent claims to the transferred funds shall be paid from the account ''Unclaimed Moneys of Individuals Whose Whereabouts are Unknown''.

(b) Except as provided in subsection (c) of this section, necessary amounts are appropriated to the Secretary of the Treasury to make payments from—

(1) the Treasury trust fund receipt account ''Unclaimed Moneys of Individuals Whose Whereabouts are Unknown''; and

(2) the United States Government account ''Refund of Moneys Erroneously Received and Covered'' and other collections erroneously deposited that are not properly chargeable to another appropriation.

(c)(1) The Secretary of the Treasury shall hold in the Treasury trust fund receipt account ''Unclaimed Moneys of Individuals Whose Whereabouts Are Unknown'' the balance remaining after the final distribution of unclaimed Postal Savings System deposits under subsection (a) of the first section of the Act of August 13, 1971 (Public Law 92–117; 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit concerning the disposition of unclaimed or abandoned property.

(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims made within the time limitation set forth in paragraph (3) of this subsection.

(3) No claim for any Postal Savings System deposit may be brought more than one year from the date of the enactment of the Postal Savings System Statute of Limitations Act.

(4) The United States Postal Service shall assist the Secretary of the Treasury in providing public notice of the time limitation set forth in paragraph (3) of this subsection by posting notices thereof in all post offices as soon as practicable after the date of the enactment of the Postal Savings System Statute of Limitations Act.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 922; Pub. L. 98–359, § 2, July 13, 1984, 98 Stat. 402.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1322(a) ..... | 31:725s(a)(last sentence last proviso). | June 26, 1934, ch. 756, § 20(a)(last sentence last proviso), 48 Stat. 1233; Apr. 21, 1976, Pub. L. 94–273, § 2(16), 90 Stat. 375. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1322(b) ..... | 31:725p–1. | June 30, 1949, ch. 286, § 101(par. under heading ''Payments of Unclaimed Moneys''), 63 Stat. 359. |
| | 31:725q–1. | June 30, 1949, ch. 286, § 101(par. under heading ''Refund of Moneys Erroneously Received and Covered''), 63 Stat. 358. |
| 1322(c) ..... | 31:725p(note). | Aug. 13, 1971, Pub. L. 92–117, 85 Stat. 337. |

In subsection (a), the words ''directed to be established in section 725p of this title'' are omitted as surplus.

In subsection (b), before clause (1), the words ''Secretary of the Treasury'' are substituted for ''Treasury Department'' for consistency. The words ''out of any money in the Treasury not otherwise appropriated'' in 31:725q–1 are omitted as surplus. In clause (1), the words ''of the character formerly chargeable to the appropriation accounts abolished under section 725p of this title'' in 31:725p–1 are omitted as unnecessary because of the restatement. In clause (2), the words ''United States Government account 'Refund of Moneys Erroneously Received and Covered'' are substituted for ''of the character formerly chargeable to the appropriation accounts abolished under section 725q of this title'' in 31:725q–1 for clarity and to eliminate unnecessary words.

In subsection (c)(1), the words ''claims for . . . deposits'' are substituted for ''claims by or on behalf of depositors'' to eliminate unnecessary words. The text of section 1(a) of the Act of August 13, 1971 (Pub. L. 92–117, 85 Stat. 337), is omitted as executed.

REFERENCES IN TEXT

Subsection (a) of the first section of the Act of August 13, 1971 (Public Law 92–117; 85 Stat. 337), referred to in subsec. (c)(1), was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1081.

The date of the enactment of the Postal Savings System Statute of Limitations Act, referred to in subsec. (c)(3) and (4), is the date of enactment of Pub. L. 98–359, which was approved July 13, 1984.

AMENDMENTS

1984—Subsec. (c)(1). Pub. L. 98–359 substituted provision authorizing the balance to be held by the Secretary for provision authorizing the balance to be held by the Secretary in perpetuity.

Subsec. (c)(2). Pub. L. 98–359 substituted reference to par. (3) of this subsection for reference to par. (1) of this subsection.

Subsec. (c)(3), (4). Pub. L. 98–359 added pars. (3) and (4).

## § 1323. Trust funds for certain fees, donations, quasi-public amounts, and unearned amounts

(a) Amounts from the following sources held in checking accounts of disbursing officials shall be deposited in the Treasury to the appropriate trust fund receipt accounts:

(1) unearned money, lands (Department of the Interior).

(2) reentry permit fees (Department of Justice).

(3) naturalization fees (Department of Justice).

(4) registry fees (Department of Justice).

(b) Amounts deposited under subsection (a) of this section are appropriated for refunds. Earned parts of those amounts shall be transferred and credited to the appropriate receipt fund accounts.

(c) Donations, quasi-public amounts, and unearned amounts shall be deposited in the Treasury as trust funds and are appropriated for disbursement under the terms of the trusts when the donation or amount is—

(1) administered by officers and employees of the United States Government; and

(2) carried in checking accounts of disbursing officials or others required to account to the Comptroller General (except clerks and marshals of the United States district courts).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 922.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1323(a), (b). | 31:725r(less proviso). | June 26, 1934, ch. 756, § 19, 48 Stat. 1232; Dec. 21, 1944, ch. 631, § 2, 58 Stat. 845. |
| 1323(c) ..... | 31:725r(proviso). | |

In subsection (a), before clause (1), the words ''Effective July 1, 1935'' are omitted as executed. In clauses (2)–(4), the words ''Department of Justice'' are substituted for ''Labor Department'' (subsequently changed to ''Justice Department'' because of Reorganization Plan No. 5 of 1940 (eff. June 14, 1940, 54 Stat. 1238)) for consistency with title 28.

The words related to Patent Office (subsequently changed to Patent and Trademark Office because of section 3 of the Act of January 2, 1975 (Pub. L. 93–596, 88 Stat. 1949)), are omitted as superseded by 35:42.

In subsection (c), the words ''officers and employees of the United States Government'' are substituted for ''officers of the United States by virtue of their official capacity'' for consistency and to eliminate unnecessary words.

## § 1324. Refund of internal revenue collections

(a) Necessary amounts are appropriated to the Secretary of the Treasury for refunding internal revenue collections as provided by law, including payment of—

(1) claims for prior fiscal years; and

(2) accounts arising under—

(A) ''Allowance or drawback (Internal Revenue)'';

(B) ''Redemption of stamps (Internal Revenue)'';

(C) ''Refunding legacy taxes, Act of March 30, 1928'';

(D) ''Repayment of taxes on distilled spirits destroyed by casualty''; and

(E) ''Refunds and payments of processing and related taxes''.

(b) Disbursements may be made from the appropriation made by this section only for—

(1) refunds to the limit of liability of an individual tax account; and

(2) refunds due from credit provisions of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) enacted before January 1, 1978, or enacted by the Taxpayer Relief Act of 1997, or from section 35, 36, 168(k)(4)(F), 53(e), 54B(h), or 6428 of such Code, or due under section 3081(b)(2) of the Housing Assistance Tax Act of 2008.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 923; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 105–34, title I, § 101(d)(1), Aug. 5, 1997, 111 Stat. 799; Pub. L. 107–210, div. A, title II, § 201(c)(1), Aug. 6, 2002, 116 Stat. 960; Pub. L. 109–432, div. A, title IV, § 402(b)(2), Dec. 20, 2006, 120 Stat.

2954;Pub. L. 110–185, title I, § 101(f)(1), Feb. 13, 2008, 122 Stat. 617; Pub. L. 110–234, title XV, § 15316(c)(6), May 22, 2008, 122 Stat. 1511; Pub. L. 110–246, § 4(a), title XV, § 15316(c)(6), June 18, 2008, 122 Stat. 1664, 2273; Pub. L. 110–289, div. C, title I, § 3011(b)(3), title III, § 3081(c), July 30, 2008, 122 Stat. 2891, 2906.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1324(a) ..... | 31:725q–1a(1st par.). | June 19, 1948, ch. 558, § 101(words before proviso in par. under heading ''Bureau of Internal Revenue''), 62 Stat. 561. |
| 1324(b) ..... | 31:725q–1a(last par.). | June 19, 1948, ch. 558, 62 Stat. 560, § 302(last par); added Sept. 8, 1978, Pub. L. 95–355, § 303, 92 Stat. 563. |

In subsection (a), the words ''Necessary amounts are appropriated to the Secretary of the Treasury'' are added to reflect the introductory language of the Act of June 19, 1948. The words ''on and after June 19, 1948'' are omitted as executed.

In subsection (b), the words ''appropriation made by this section'' are substituted for ''the appropriation to the Treasury Department entitled 'Bureau of Internal Revenue Refunding Internal-Revenue Collections' '' to eliminate unnecessary words.

REFERENCES IN TEXT

Act of March 30, 1928, referred to in subsec. (a)(2)(C), is act Mar. 30, 1928, ch. 302, 45 Stat. 398, which is not classified to the Code.

The Taxpayer Relief Act of 1997, referred to in subsec. (b)(2), is Pub. L. 105–34, Aug. 5, 1997, 111 Stat. 788. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

Sections 35, 36, 168, 53, 54B, and 6428 of the Internal Revenue Code of 1986, referred to in subsec. (b)(2), are classified to sections 35, 36, 168, 53, 54B, and 6428, respectively, of Title 26, Internal Revenue Code.

Section 3081(b)(2) of the Housing Assistance Tax Act of 2008, referred to in subsec. (b)(2), is section 3081(b)(2) of Pub. L. 110–289, div. C, title III, July 30, 2008, 122 Stat. 2906, which is not classified to the 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. (b)(2). Pub. L. 110–289, § 3081(c), inserted ''168(k)(4)(F),'' after ''36,'' and '', or due under section 3081(b)(2) of the Housing Assistance Tax Act of 2008'' before period at end.

Pub. L. 110–289, § 3011(b)(3), inserted ''36,'' after ''35,''.

Pub. L. 110–246, § 15316(c)(6), substituted '', 53(e), 54B(h), or 6428'' for ''or 6428 or 53(e)''.

Pub. L. 110–185 inserted ''or 6428'' after ''section 35''.

2006—Subsec. (b)(2). Pub. L. 109–432 inserted ''or 53(e)'' after ''section 35''.

2002—Subsec. (b)(2). Pub. L. 107–210 inserted '', or from section 35 of such Code'' before period at end.

1997—Subsec. (b)(2). Pub. L. 105–34 inserted before period at end '', or enacted by the Taxpayer Relief Act of 1997''.

1986—Subsec. (b)(2). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 3011(b)(3) of Pub. L. 110–289 applicable to residences purchased on or after Apr. 9, 2008, in taxable years ending on or after such date, see section 3011(c) of Pub. L. 110–289, set out as a note under section 26 of Title 26, Internal Revenue Code.

Amendment by section 3081(c) of Pub. L. 110–289 applicable to taxable years ending after Mar. 31, 2008, see section 3081(d) of Pub. L. 110–289, set out as a note under section 168 of Title 26, Internal Revenue Code.

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 section 15316(c)(6) of Pub. L. 110–246 applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110–246, set out as a note under section 54 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–432 applicable to taxable years beginning after Dec. 20, 2006, see section 402(c) of Pub. L. 109–432, set out as a note under section 53 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 applicable to taxable years beginning after Dec. 31, 1997, see section 101(e) of Pub. L. 105–34, set out as a note under section 24 of Title 26, Internal Revenue Code.

CONSTRUCTION OF 2002 AMENDMENT

Nothing in amendment by Pub. L. 107–210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107–210, set out as a note under section 2918 of Title 29, Labor.

COORDINATION WITH REFUND PROVISION

Pub. L. 101–508, title XI, § 11116, Nov. 5, 1990, 104 Stat. 1388–415, provided that: ''For purposes of section 1324(b)(2) of title 31 of the United States Code, section 32 of the Internal Revenue Code of 1986 [26 U.S.C. 32] (as amended by this Act) shall be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.''

## SUBCHAPTER III—LIMITATIONS, EXCEPTIONS, AND PENALTIES

SHORT TITLE

Certain provisions of this subchapter and subchapter II of chapter 15 of this title were originally enacted as section 3679 of the Revised Statutes, popularly known as the Anti-Deficiency Act. That section was repealed as part of the general revision of this title by Pub. L. 97–258, and its provisions restated in sections 1341, 1342, 1349 to 1351, and 1511 to 1519 of this title.

### § 1341. Limitations on expending and obligating amounts

(a)(1) An officer or employee of the United States Government or of the District of Columbia government may not—

(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;

(B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law;

(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) This subsection does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

(b) An article to be used by an executive department in the District of Columbia that could be bought out of an appropriation made to a regular contingent fund of the department may not be bought out of another amount available for obligation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 923; Pub. L. 101–508, title XIII, § 13213(a), Nov. 5, 1990, 104 Stat. 1388–621.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1341(a) ..... | 31:665(a), (d)(2)(last sentence related to spending and obligations). | R.S. § 3679(a), (d)(2)(last sentence related to spending and obligations); Mar. 3, 1905, ch. 1484, § 4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 765. |
| 1341(b) ..... | 31:669(words after semicolon). | Aug. 23, 1912, ch. 350, § 6(words after semicolon), 37 Stat. 414. |

In subsection (b), the words ''another amount available for obligation'' are substituted for ''any other fund'' for consistency in the revised title.

REFERENCES IN TEXT

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (a)(1)(C), (D), is classified to section 902 of Title 2, The Congress.

AMENDMENTS

1990—Subsec. (a)(1)(C), (D). Pub. L. 101–508 added subpars. (C) and (D).

## § 1342. Limitation on voluntary services

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government. As used in this section, the term ''emergencies involving the safety of human life or the protection of property'' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 923; Pub. L. 101–508, title XIII, § 13213(b), Nov. 5, 1990, 104 Stat. 1388–621; Pub. L. 104–92, title III, § 310(a), Jan. 6, 1996, 110 Stat. 20.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1342 ..... | 31:665(b). | R.S. § 3679(b), (d)(2)(last sentence related to voluntary services); Mar. 3, 1905, ch. 1484, § 4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 765. |
| | 31:665(d)(2)(last sentence related to voluntary services). | |

The words ''District of Columbia government'' are added because of section 47–105 of the D.C. Code.

AMENDMENTS

1996—Pub. L. 104–92 temporarily amended section by inserting ''All officers and employees of the United States Government or the District of Columbia government shall be deemed to be performing services relating to emergencies involving the safety of human life or the protection of property.'' after first sentence and by striking out at end ''As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property''. See Effective and Termination Dates of 1996 Amendment note below.

1990—Pub. L. 101–508 inserted at end ''As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.''

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Section 310(a) of Pub. L. 104–92 provided that the amendment made by that section is for the period Dec. 15, 1995, through Jan. 26, 1996.

## § 1343. Buying and leasing passenger motor vehicles and aircraft

(a) In this section, buying a passenger motor vehicle or aircraft includes a transfer of the vehicle or aircraft between agencies.

(b) An appropriation may be expended to buy or lease passenger motor vehicles only—

(1) for the use of—

(A) the President;

(B) the secretaries to the President; or

(C) the heads of executive departments listed in section 101 of title 5; or

(2) as specifically provided by law.

(c)(1) Except as specifically provided by law, an agency may use an appropriation to buy a passenger motor vehicle (except a bus or ambulance) only at a total cost (except costs required only for transportation) that—

(A) includes the price of systems and equipment the Administrator of General Services decides is incorporated customarily in standard passenger motor vehicles completely equipped for ordinary operation;

(B) includes the value of a vehicle used in exchange;

(C) is not more than the maximum price established by the agency having authority under law to establish a maximum price; and

(D) is not more than the amount specified in a law.

(2) Additional systems and equipment may be bought for a passenger motor vehicle if the Administrator decides the purchase is appropriate. The price of additional systems or equipment is not included in deciding whether the cost of the vehicle is within a maximum price specified in a law.

(d) An appropriation (except an appropriation for the armed forces) is available to buy, maintain, or operate an aircraft only if the appropriation specifically authorizes the purchase, maintenance, or operation.

(e) This section does not apply to—

(1) buying, maintaining, and repairing passenger motor vehicles by the United States Capitol Police;

(2) buying, maintaining, and repairing vehicles necessary to carry out projects to improve, preserve, and protect rivers and harbors; or

(3) leasing, maintaining, repairing, or operating motor passenger vehicles necessary in the field work of the Department of Agriculture.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 924.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1343(a) ..... | 31:638a(e). | July 16, 1914, ch. 141, § 5(a), (b), (e), 38 Stat. 508; restated Aug. 2, 1946, ch. 744, § 16(a), 60 Stat. 810, 811. |
| 1343(b) ..... | 31:638a(a). | |
| 1343(c) ..... | 31:638a(c)(1). | July 16, 1914, ch. 141, § 5(c)(1), 38 Stat. 508; Aug. 2, 1946, ch. 744, § 16(a), 60 Stat. 810; restated Sept. 26, 1970, Pub. L. 91–423, 84 Stat. 879. |
| 1343(d) ..... | 31:638a(b). | |
| 1343(e) ..... | 31:638a–1. | July 25, 1975, Pub. L. 94–59, § 1108, 89 Stat. 300. |
| | 31:638d. | Mar. 4, 1915, ch. 142, § 10, 38 Stat. 1054. |
| | 31:638e. | Aug. 11, 1916, ch. 313(last proviso on p. 491), 39 Stat. 491. |

In subsection (a), the word ''agency'' is substituted for ''department of the Government'' because of section 101 of the revised title and for consistency with the other source provisions restated in the section.

In subsection (b), before clause (1), the words ''buy or lease'' are substituted for ''purchase or hire'' for consistency. In clause (1)(C), the words ''section 101 of title 5'' are used because of section 7(b) of the Act of September 6, 1966 (Pub. L. 89–554, 80 Stat. 631).

In subsection (c)(1), before clause (A), the word ''agency'' is substituted for ''department'' for consistency. The words ''total cost'' are substituted for ''cost'' because of the restatement. The words ''(except costs required only for transportation)'' are substituted for ''which shall be in addition to the amount required for transportation'' for clarity. Clause (A) is substituted for ''completely equipped for operation'' and 31:638a(c)(1)(2d sentence) to eliminate unnecessary words.

In subsection (c)(2), the words ''Notwithstanding any other provisions of law'' are omitted as surplus.

In subsection (d), the words ''armed forces'' are substituted for ''Military and Naval Establishments'' for consistency.

In subsection (e)(2), the words ''motor boats, trucks'' in 31:638d are omitted as being included in ''vehicles''. The words ''adopted by Congress'' are omitted as surplus.

In subsection (e)(3), the words ''horse-drawn'' in 31:638e are omitted because the section applies only to motor vehicles and aircraft described in 31:638a and also is obsolete. The words ''motor boats'' are omitted as being included in ''vehicles''.

MOTOR VEHICLES PURCHASED FOR INTELLIGENCE ACTIVITIES; EXCEPTION FROM MONETARY LIMITATIONS

Pub. L. 103–139, title VIII, § 8105, Nov. 11, 1993, 107 Stat. 1464, provided that: ''During the current fiscal year and thereafter, monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 [50 U.S.C. 401 note] or successor orders.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–396, title IX, § 9038, Oct. 6, 1992, 106 Stat. 1910.

Pub. L. 102–172, title VIII, § 8038, Nov. 26, 1991, 105 Stat. 1180.

Pub. L. 101–511, title VIII, § 8039, Nov. 5, 1990, 104 Stat. 1883.

Pub. L. 101–165, title IX, § 9049, Nov. 21, 1989, 103 Stat. 1139.

Pub. L. 100–463, title VIII, § 8086, Oct. 1, 1988, 102 Stat. 2270–32.

Pub. L. 100–202, § 101(b) [title VIII, § 8119], Dec. 22, 1987, 101 Stat. 1329–43, 1329–84.

MAXIMUM PURCHASE PRICE OF MOTOR VEHICLES; EXCEPTIONS

Pub. L. 110–161, div. D, title VII, § 703, Dec. 26, 2007, 121 Stat. 2019, provided that: ''Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810) [31 U.S.C. 1343], for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $12,888 except station wagons for which the maximum shall be $13,312: *Provided*, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 [15 U.S.C. 2501 et seq.]: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 [see Tables for classification] over the cost of comparable conventionally fueled vehicles.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 109–115, div. A, title VIII, § 803, Nov. 30, 2005, 119 Stat. 2495.

Pub. L. 108–447, div. H, title VI, § 603, Dec. 8, 2004, 118 Stat. 3272.

Pub. L. 108–199, div. F, title VI, § 603, Jan. 23, 2004, 118 Stat. 350.

Pub. L. 108–7, div. J, title VI, § 603, Feb. 20, 2003, 117 Stat. 463.

Pub. L. 107–67, title VI, § 603, Nov. 12, 2001, 115 Stat. 545.

Pub. L. 106–554, § 1(a)(3) [title VI, § 603], Dec. 21, 2000, 114 Stat. 2763, 2763A–155.

Pub. L. 106–58, title VI, § 603, Sept. 29, 1999, 113 Stat. 466.

Pub. L. 105–277, div. A, § 101(h) [title VI, § 604], Oct. 21, 1998, 112 Stat. 2681–480, 2681–513.

Pub. L. 105–61, title VI, § 604, Oct. 10, 1997, 111 Stat. 1308.

Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 604], Sept. 30, 1996, 110 Stat. 3009–314, 3009–353.

Pub. L. 104–52, title VI, § 604, Nov. 19, 1995, 109 Stat. 497.

Pub. L. 103–329, title VI, § 604, Sept. 30, 1994, 108 Stat. 2416.

Pub. L. 103–123, title VI, § 604, Oct. 28, 1993, 107 Stat. 1259.

Pub. L. 102–393, title VI, § 605, Oct. 6, 1992, 106 Stat. 1766.

Pub. L. 102–141, title VI, § 605, Oct. 28, 1991, 105 Stat. 868.
Pub. L. 101–509, title VI, § 601, Nov. 5, 1990, 104 Stat. 1470.
Pub. L. 101–136, title VI, § 601, Nov. 3, 1989, 103 Stat. 816.
Pub. L. 100–440, title VI, § 601, Sept. 22, 1988, 102 Stat. 1751.
Pub. L. 100–202, § 101(m) [title VI, § 601], Dec. 22, 1987, 101 Stat. 1329–390, 1329–419.
Pub. L. 99–500, § 101(m) [title VI, § 601], Oct. 18, 1986, 100 Stat. 1783–308, 1783–328, and Pub. L. 99–591, § 101(m) [title VI, § 601], Oct. 30, 1986, 100 Stat. 3341–308, 3341–328.
Pub. L. 99–190, § 101(h) [H.R. 3036, title VI, § 601], Dec. 19, 1985, 99 Stat. 1291.
Pub. L. 98–473, title I, § 101(j) [H.R. 5798, title VI, § 602], Oct. 12, 1984, 98 Stat. 1963.
Pub. L. 98–151, § 101(f) [H.R. 4139, title VI, § 602], Nov. 14, 1983, 97 Stat. 973.
Pub. L. 97–377, title I, § 101(a) [H.R. 7158, title VI, § 602], Dec. 21, 1982, 96 Stat. 1830.
Pub. L. 97–92, § 101(a) [H.R. 4121, title VI, § 602], Dec. 15, 1981, 95 Stat. 1183.
Pub. L. 96–536, § 113, Dec. 16, 1980, 94 Stat. 3171.
Pub. L. 96–74, title VI, § 601, Sept. 29, 1979, 93 Stat. 573.
Pub. L. 95–429, title VI, § 601, Oct. 10, 1978, 92 Stat. 1015.
Pub. L. 95–81, title VI, § 601, July 31, 1977, 91 Stat. 354.
Pub. L. 94–363, title VI, § 601, July 14, 1976, 90 Stat. 977.
Pub. L. 94–91, title VI, § 601, Aug. 9, 1975, 89 Stat. 458.
Pub. L. 93–381, title VI, § 601, Aug. 21, 1974, 88 Stat. 630.
Pub. L. 93–143, title VI, § 601, Oct. 30, 1973, 87 Stat. 524.
Pub. L. 92–351, title VI, § 601, July 13, 1972, 86 Stat. 487.
Pub. L. 92–49, title VI, § 601, July 9, 1971, 85 Stat. 122.
Pub. L. 91–439, title V, § 501, Oct. 7, 1970, 84 Stat. 902.
Pub. L. 91–144, title V, § 501, Dec. 11, 1969, 83 Stat. 336.
Pub. L. 90–479, title V, § 501, Aug. 12, 1968, 82 Stat. 717.
Pub. L. 90–147, title V, § 501, Nov. 20, 1967, 81 Stat. 482.
Pub. L. 89–689, title V, § 501, Oct. 15, 1966, 80 Stat. 1014.
Pub. L. 89–299, title V, § 501, Oct. 28, 1965, 79 Stat. 1108.
Pub. L. 88–511, title V, § 501, Aug. 30, 1964, 78 Stat. 693.
Pub. L. 88–257, title V, § 501, Dec. 31, 1963, 77 Stat. 855.
Pub. L. 87–880, title V, § 501, Oct. 24, 1962, 76 Stat. 1227.
Pub. L. 87–125, title V, § 501, Aug. 3, 1961, 75 Stat. 282.
Pub. L. 86–642, title II, § 201, July 12, 1960, 74 Stat. 476.
Pub. L. 86–79, title II, § 201, July 8, 1959, 73 Stat. 165.
Pub. L. 85–468, title II, § 201, June 25, 1958, 72 Stat. 224.
Pub. L. 85–48, title II, § 201, June 5, 1957, 71 Stat. 53.
June 13, 1956, ch. 385, title II, § 201, 70 Stat. 279.
June 29, 1955, ch. 226, title II, § 201, 69 Stat. 195.
Aug. 26, 1954, ch. 935, Ch. XIII, § 1301, 68 Stat. 828.
Aug. 7, 1953, ch. 340, Ch. XIII, § 1301, 67 Stat. 435.
July 15, 1952, ch. 758, Ch. XIV, § 1401, 66 Stat. 659.
Nov. 1, 1951, ch. 664, Ch. XIII, § 1301, 65 Stat. 755.
Sept. 6, 1950, ch. 896, Ch. XII, § 1201, 64 Stat. 763.
Aug. 24, 1949, ch. 506, title III, § 301, 63 Stat. 661.
Apr. 20, 1948, ch. 219, title II, § 201, 62 Stat. 193.
July 30, 1947, ch. 359, title II, § 201, 61 Stat. 608.

### § 1344. Passenger carrier use

(a)(1) Funds available to a Federal agency, by appropriation or otherwise, may be expended by the Federal agency for the maintenance, operation, or repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes. Notwithstanding any other provision of law, transporting any individual other than the individuals listed in subsections (b) and (c) of this section between such individual's residence and such individual's place of employment is not transportation for an official purpose.

(2) For purposes of paragraph (1), transportation between the residence of an officer or employee and various locations that is—

(A) required for the performance of field work, in accordance with regulations prescribed pursuant to subsection (e) of this section, or

(B) essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties,

is transportation for an official purpose, when approved in writing by the head of the Federal agency.

(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.

(b) A passenger carrier may be used to transport between residence and place of employment the following officers and employees of Federal agencies:

(1)(A) the President and the Vice President;

(B) no more than 6 officers or employees in the Executive Office of the President, as designated by the President; and

(C) no more than 10 additional officers or employees of Federal agencies, as designated by the President;

(2) the Chief Justice and the Associate Justices of the Supreme Court;

(3)(A) officers compensated at Level I of the Executive Schedule pursuant to section 5312 of title 5; and

(B) a single principal deputy to an officer described in subclause (A) of this clause, when a determination is made by such officer that such transportation is appropriate;

(4) principal diplomatic and consular officials abroad, and the United States Ambassador to the United Nations;

(5) the Deputy Secretary of Defense and Under Secretaries of Defense, the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, the members and Vice Chairman of the Joint Chiefs of Staff, and the Commandant of the Coast Guard;

(6) the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives[1] the Administrator of the Drug Enforcement Administration, and the Administrator of the National Aeronautics and Space Administration;

(7) the Chairman of the Board of Governors of the Federal Reserve System;

(8) the Comptroller General of the United States and the Postmaster General of the United States; and

(9) an officer or employee with regard to whom the head of a Federal agency makes a determination, in accordance with subsection (d) of this section and with regulations prescribed pursuant to paragraph (1) of subsection (e), that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business.

Except as provided in paragraph (2) of subsection (d), any authorization made pursuant to

[1] So in original. Probably should be followed by a comma.

clause (9) of this subsection to permit the use of a passenger carrier to transport an officer or employee between residence and place of employment shall be effective for not more than 15 calendar days.

(c) A passenger carrier may be used to transport between residence and place of employment any person for whom protection is specifically authorized pursuant to section 3056(a) of title 18 or for whom transportation is authorized pursuant to section 28 of the State Department Basic Authorities Act of 1956, section 2637 of title 10, or section 8(a)(1) of the Central Intelligence Agency Act of 1949.

(d)(1) Any determination made under subsection (b)(9) of this section shall be in writing and shall include the name and title of the officer or employee affected, the reason for such determination, and the duration of the authorization for such officer or employee to use a passenger carrier for transportation between residence and place of employment.

(2) If a clear and present danger, an emergency, or a compelling operational consideration described in subsection (b)(9) of this section extends or may extend for a period in excess of 15 calendar days, the head of the Federal agency shall determine whether an authorization under such paragraph shall be extended in excess of 15 calendar days for a period of not more than 90 additional calendar days. Determinations made under this paragraph may be reviewed by the head of such agency at the end of each such period, and, where appropriate, a subsequent determination may be made whether such danger, emergency, or consideration continues to exist and whether an additional extension, not to exceed 90 calendar days, may be authorized. Determinations made under this paragraph shall be in accordance with regulations prescribed pursuant to paragraph (1) of subsection (e).

(3) The authority to make designations under subsection (b)(1) of this section and to make determinations pursuant to subsections (a)(2) and (b)(3)(B) and (9) of this section and pursuant to paragraph (2) of this subsection may not be delegated, except that, with respect to the Executive Office of the President, the President may delegate the authority of the President under subsection (b)(9) of this section to an officer in the Executive Office of the President. No designation or determination under this section may be made solely or principally for the comfort or convenience of the officer or employee.

(4) Notification of each designation or determination made under subsection (b)(1), (3)(B), and (9) of this section and under paragraph (2) of this subsection, including the name and title of the officer or employee affected, the reason for any determination under subsection (b)(9), and the expected duration of any authorization under subsection (b)(9), shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(e)(1) Not later than March 15, 1987, the Administrator of General Services, after consultation with the Comptroller General, the Director of the Office of Management and Budget, and the Director of the Administrative Office of the United States Courts, shall promulgate regulations governing the heads of all Federal agencies in making the determinations authorized by subsections (a)(2)(A), (b)(9), and (d)(2) of this section. Such regulations shall specify that the comfort and convenience of an officer or employee is not sufficient justification for authorizations of transportation under this section.

(2) In promulgating regulations under paragraph (1) of this subsection, the Administrator of General Services shall provide criteria defining the term ''field work'' for purposes of subsection (a)(2)(A) of this section. Such criteria shall ensure that transportation between an employee's residence and the location of the field work will be authorized only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

(f) Each Federal agency shall maintain logs or other records necessary to establish the official purpose for Government transportation provided between an individual's residence and such individual's place of employment pursuant to this section.

(g)(1) If and to the extent that the head of a Federal agency, in his or her sole discretion, deems it appropriate, a passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) may absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

(3) In carrying out this subsection, a Federal agency, to the maximum extent practicable and consistent with sound budget policy, should—

(A) use alternative fuel vehicles for the provision of transportation services;

(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

(4) For purposes of any determination under chapter 81 of title 5 or chapter 171 of title 28, an individual shall not be considered to be in the ''performance of duty'' or ''acting within the scope of his or her office or employment'' by virtue of the fact that such individual is receiving transportation services under this subsection. Nor shall any time during which an individual uses such services be considered when calculating the hours of work or employment for that individual for purposes of title 5 of the United States Code, including chapter 55 of that title.

(5)(A) The Administrator of General Services, after consultation with the appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

(B) Transportation services under this subsection shall be subject neither to the last sen-

tence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

(6) In this subsection, the term ''passenger carrier'' means a passenger motor vehicle or similar means of transportation that is owned, leased, or provided pursuant to contract by the United States Government.

(h) As used in this section—

(1) the term ''passenger carrier'' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government; and

(2) the term ''Federal agency'' means—

(A) a department (as such term is defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 5a));

(B) an Executive department (as such term is defined in section 101 of title 5);

(C) a military department (as such term is defined in section 102 of title 5);

(D) a Government corporation (as such term is defined in section 103(1) of title 5);

(E) a Government controlled corporation (as such term is defined in section 103(2) of title 5);

(F) a mixed-ownership Government corporation (as such term is defined in section 9101(2) of this title);

(G) any establishment in the executive branch of the Government (including the Executive Office of the President);

(H) any independent regulatory agency (including an independent regulatory agency specified in section 3502(10)[2] of title 44);

(I) the Smithsonian Institution; and

(J) any nonappropriated fund instrumentality of the United States,

except that such term does not include the government of the District of Columbia.

(i) Notwithstanding section 410(a) of title 39, this section applies to the United States Postal Service.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 924; Pub. L. 99–550, §1(a), Oct. 27, 1986, 100 Stat. 3067; Pub. L. 100–180, div. A, title XIII, §1314(d)(2), Dec. 4, 1987, 101 Stat. 1176; Pub. L. 100–202, §101(a) [title IV, §407], Dec. 22, 1987, 101 Stat. 1329, 1329–26; Pub. L. 101–510, div. A, title III, §326(b), Nov. 5, 1990, 104 Stat. 1531; Pub. L. 103–272, §4(f)(2), July 5, 1994, 108 Stat. 1363; Pub. L. 104–91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, amended Pub. L. 104–99, title II, §211, Jan. 26, 1996, 110 Stat. 37; Pub. L. 108–7, div. K, title IV, §423, Feb. 20, 2003, 117 Stat. 526; Pub. L. 108–447, div. B, title I, §117, Dec. 8, 2004, 118 Stat. 2870; Pub. L. 109–59, title III, §3049(b)(1), (2), Aug. 10, 2005, 119 Stat. 1712, 1713.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1344(a) ..... | 31:638a(c)(2)(1st sentence). | July 16, 1914, ch. 141, §5(c)(2)(1st, last sentences), 38 Stat. 508; restated Aug. 2, 1946, ch. 744, §16(a), 60 Stat. 810. |
| 1344(b) ..... | 31:638a(c)(2)(last sentence). | |

[2] See References in Text note below.

In subsection (a), before clause (1), the words ''officers and employees of the Government'' are substituted for ''officers and employees'' for clarity. In clause (2), the words ''performing field work requiring transportation'' are substituted for ''engaged in field work the character of whose duties makes such transportation necessary'' to eliminate unnecessary words. The word ''agency'' is substituted for ''department'' because of section 101 of the revised title and for consistency with the source provisions restated in the section and section 1341.

In subsection (b)(2), the words ''section 101 of title 5'' are used because of section 7(b) of the Act of September 6, 1966 (Pub. L. 89–554, 80 Stat. 631).

In subsection (b)(3), the words ''ambassadors, ministers, charges d'affaires'' are omitted as being included in ''principal diplomatic and consular officials''.

REFERENCES IN TEXT

Section 28 of the State Department Basic Authorities Act of 1956, referred to in subsec. (c), is classified to section 2700 of Title 22, Foreign Relations and Intercourse.

Section 8(a)(1) of the Central Intelligence Agency Act of 1949, referred to in subsec. (c), is classified to section 403j(a)(1) of Title 50, War and National Defense.

Subsection (b)(2)(B) of this section, referred to in subsec. (d)(3), (4), was redesignated subsec. (b)(3)(B) by Pub. L. 100–202. See 1987 Amendment note below.

Section 3502 of title 44, referred to in subsec. (h)(2)(H), which in par. (10) defined ''independent regulatory agency'', was omitted in the general amendment of chapter 35 of Title 44, Public Printing and Documents, by Pub. L. 104–13, §2, May 22, 1995, 109 Stat. 163. Pub. L. 104–13 enacted a new section 3502 of Title 44 which also defines ''independent regulatory agency''.

CODIFICATION

Amendment by Pub. L. 104–91 is based on section 118 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, which was enacted into law by Pub. L. 104–91.

AMENDMENTS

2005—Subsec. (a)(3). Pub. L. 109–59, §3049(b)(2), added par. (3).

Subsecs. (g) to (i). Pub. L. 109–59, §3049(b)(1), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

2004—Subsec. (b)(6). Pub. L. 108–447 inserted ''Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives'' after ''Federal Bureau of Investigation,''.

2003—Subsec. (b)(6). Pub. L. 108–7 added par. (6) and struck out former par. (6) which read as follows: ''the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, and the Administrator of the Drug Enforcement Administration;''.

1996—Subsec. (b)(6). Pub. L. 104–91, as amended by Pub. L. 104–99, amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation;''.

1994—Subsecs. (b), (d), (e). Pub. L. 103–272 amended Pub. L. 100–202. See 1987 Amendment notes below.

1990—Subsec. (c). Pub. L. 101–510 inserted '', section 2637 of title 10,'' after ''Act of 1956''.

1987—Subsec. (b). Pub. L. 100–202, §101(a) [title IV, §407(1)], as amended by Pub. L. 103–272, added cl. (2), redesignated former cl. (2) as (3) and in subcl. (B) substituted ''subclause (A) of this clause'' for ''subparagraph (A) of this paragraph'', redesignated former cls. (3) to (8) as (4) to (9), respectively, and in last sentence substituted ''clause (9)'' for ''paragraph (8)''.

Subsec. (b)(4). Pub. L. 100–180 inserted ''the members and Vice Chairman of'' before ''the Joint Chiefs of Staff''.

Subsec. (d)(1), (2). Pub. L. 100–202, §101(a) [title IV, §407(2)(A)], as amended by Pub. L. 103–272, substituted ''subsection (b)(9) of this section'' for ''paragraph (8) of subsection (b)''.

Subsec. (d)(3). Pub. L. 100–202, § 101(a) [title IV, § 407(2)(B)], as amended by Pub. L. 103–272, substituted ''subsections (a)(2) and (b)(3)(B) and (9)'' for ''subsections (a)(2), (b)(2)(B), and (b)(8)'' and ''subsection (b)(9)'' for ''subsection (b)(8)''.

Subsec. (d)(4). Pub. L. 100–202, § 101(a) [title IV, § 407(2)(C)], as amended by Pub. L. 103–272, substituted ''subsection (b)(1), (3)(B), and (9) of this section'' and ''subsection (b)(9), and the expected duration of any authorization under subsection (b)(9)'' for ''paragraphs (1), (2)(B), and (8) of subsection (b)'' and ''paragraph (8) of subsection (b), and the expected duration of any authorization under such paragraph'', respectively.

Subsec. (e)(1). Pub. L. 100–202, § 101(a) [title IV, § 407(3)], as amended by Pub. L. 103–272, substituted ''(b)(9)'' for ''(b)(8)''.

1986—Pub. L. 99–550 substituted ''carrier'' for ''motor vehicle and aircraft'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) Except as specifically provided by law, an appropriation may be expended to maintain, operate, and repair passenger motor vehicles or aircraft of the United States Government that are used only for an official purpose. An official purpose does not include transporting officers or employees of the Government between their domiciles and places of employment except—

''(1) medical officers on out-patient medical service; and

''(2) officers or employees performing field work requiring transportation between their domiciles and places of employment when the transportation is approved by the head of the agency.

''(b) This section does not apply to a motor vehicle or aircraft for the official use of—

''(1) the President;

''(2) the heads of executive departments listed in section 101 of title 5; or

''(3) principal diplomatic and consular officials.''

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

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.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–447, div. B, title I, § 117, Dec. 8, 2004, 118 Stat. 2870, provided in part that: ''This amendment [amending this section] shall take effect as if enacted on January 1, 2004.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(f)(2) of Pub. L. 103–272 provided that the amendment made by that section is effective Dec. 22, 1987.

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.

COORDINATION

Pub. L. 109–59, title III, § 3049(b)(3), Aug. 10, 2005, 119 Stat. 1713, provided that: ''The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.''

USE OF GOVERNMENT VEHICLES

Pub. L. 101–194, title V, § 503, Nov. 30, 1989, 103 Stat. 1755, as amended by Pub. L. 101–280, § 6(b), May 4, 1990, 104 Stat. 160, provided that: ''Notwithstanding any other provision of law, the head of each department, agency, or other entity of each branch of the Government may prescribe by rule appropriate conditions for the incidental use, for other than official business, of vehicles owned or leased by the Government. Such use with respect to vehicles owned or leased by, or the cost of which is reimbursed by, the House of Representatives or the Senate shall be only as prescribed by rule of the House of Representatives or the Senate, as applicable.''

USE OF OFFICIAL VEHICLES OF HOUSE OF REPRESENTATIVES

Pub. L. 101–194, title VIII, § 802(d), Nov. 30, 1989, 103 Stat. 1773, as amended by Pub. L. 104–186, title II, § 219(a), Aug. 20, 1996, 110 Stat. 1747, provided that: ''The Committee on House Oversight [now Committee on House Administration] of the House of Representatives shall take such action as may be necessary to carry out section 503 [set out above] with respect to vehicles of the House of Representatives.''

## § 1345. Expenses of meetings

Except as specifically provided by law, an appropriation may not be used for travel, transportation, and subsistence expenses for a meeting. This section does not prohibit—

(1) an agency from paying the expenses of an officer or employee of the United States Government carrying out an official duty; and

(2) the Secretary of Agriculture from paying necessary expenses for a meeting called by the Secretary for 4–H Boys and Girls Clubs as part of the cooperative extension work of the Department of Agriculture.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 925.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 1345 ..... | 31:551.<br>31:552. | Feb. 2, 1935, ch. 4, 49 Stat. 19.<br>June 17, 1935, ch. 271, 49 Stat. 387. |

In the section, before clause (1), the word ''appropriation'' is substituted for ''no moneys from funds appropriated for any purpose'' in 31:551 for consistency in the

revised title. The words ''travel, transportation, and subsistence expenses for a meeting'' are substituted for ''the purpose of lodging, feeding, conveying, or furnishing transportation to, any conventions or other form of assemblage or gathering'' to eliminate unnecessary words. The words ''to be held in the District of Columbia or elsewhere'' are omitted as unnecessary.

In clause (1), the words ''agency from paying'' are substituted for ''the payment of'' for clarity and because of section 101 of the revised title.

AVAILABILITY OF APPROPRIATIONS FOR EXPENSES OF ATTENDING MEETINGS

Pub. L. 102–394, title V, § 505, Oct. 6, 1992, 106 Stat. 1825, provided that: ''Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–170, title V, § 505, Nov. 26, 1991, 105 Stat. 1141.

Pub. L. 101–517, title V, § 505, Nov. 5, 1990, 104 Stat. 2221.

Pub. L. 101–166, title V, § 505, Nov. 21, 1989, 103 Stat. 1189.

Pub. L. 100–202, § 101(h) [title V, § 505], Dec. 22, 1987, 101 Stat. 1329–256, 1329–287.

Pub. L. 99–500, § 101(i) [H.R. 5233, title V, § 505], Oct. 18, 1986, 100 Stat. 1783–287, and Pub. L. 99–591, § 101(i) [H.R. 5233, title V, § 505], Oct. 30, 1986, 100 Stat. 3341–287.

Pub. L. 99–178, title V, § 505, Dec. 12, 1985, 99 Stat. 1132.

Pub. L. 98–619, title V, § 505, Nov. 8, 1984, 98 Stat. 3333.

Pub. L. 98–139, title V, § 505, Oct. 31, 1983, 97 Stat. 899.

Pub. L. 97–377, title I, § 101(e)(1) [title V, § 505], Dec. 21, 1982, 96 Stat. 1878, 1904.

## § 1346. Commissions, councils, boards, and interagency and similar groups

(a) Except as provided in this section—

(1) public money and appropriations are not available to pay—

(A) the pay or expenses of a commission, council, board, or similar group, or a member of that group;

(B) expenses related to the work or the results of work or action of that group; or

(C) for the detail or cost of personal services of an officer or employee from an executive agency in connection with that group; and

(2) an accounting or disbursing official, absent a special appropriation to pay the account or charge, may not allow or pay an account or charge related to that group.

(b) Appropriations of an executive agency are available for the expenses of an interagency group conducting activities of interest common to executive agencies when the group includes a representative of the agency. The representatives receive no additional pay because of membership in the group. An officer or employee of an executive agency not a representative of the group may not receive additional pay for providing services for the group.

(c) Subject to section 1347 of this title, this section does not apply to—

(1) commissions, councils, boards, or similar groups authorized by law;

(2) courts-martial or courts of inquiry of the armed forces; or

(3) the contingent fund related to foreign relations at the disposal of the President.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 925.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1346(a) ..... | 31:672(1st sentence less words between 4th and 5th commas). | R.S. § 3681. |
| | 31:673(less words between 11th comma and semicolon). | Mar. 4, 1909, ch. 299, § 9, 35 Stat. 1027. |
| 1346(b) ..... | 31:691. | May 3, 1945, ch. 106, § 214, 59 Stat. 134. |
| 1346(c) ..... | 31:672(1st sentence words between 4th and 5th commas), (last sentence). | |
| | 31:673(words between 11th comma and semicolon). | |

In the section, the words ''executive agency'' are substituted for ''any executive department or other Government establishment'' for clarity and because of section 102 of the revised title.

In subsection (a)(1), before subclause (A), the words ''made by Congress'' are omitted as surplus. In subclause (C), the words ''the detail or cost of personal services of an officer'' are substituted for ''by detail, hereafter or heretofore made, or otherwise personal services'' to eliminate unnecessary words and for clarity.

In subsection (a)(2), the words ''of the Government'' are omitted as surplus. The words ''absent a special appropriation'' are substituted for ''until special appropriations shall have been made by law'' to eliminate unnecessary words.

In subsection (b), the words ''On or after May 3, 1945'' are omitted as executed. The words ''interagency group'' are substituted for ''committees, boards, or other interagency groups'' to eliminate unnecessary words. The words ''includes a representative of the agency'' are substituted for ''composed in whole or in part of representatives thereof'' for clarity.

In subsection (c)(1), the words ''authorized by law'' are substituted for ''unless the creation . . . shall be or shall have been authorized by law'' to eliminate unnecessary words.

In subsection (c)(2), the words ''armed forces'' are substituted for ''military or naval service of the United States'' for consistency.

Subsection (c)(3) is substituted for the last sentence of 31:672 to eliminate unnecessary words.

## § 1347. Appropriations or authorizations required for agencies in existence for more than one year

(a) An agency in existence for more than one year may not use amounts otherwise available for obligation to pay its expenses without a specific appropriation or specific authorization by law. If the principal duties and powers of the agency are substantially the same as or similar to the duties and powers of an agency established by executive order, the agency established later is deemed to have been in existence from the date the agency established by the order came into existence.

(b) Except as specifically authorized by law, another agency may not use amounts available for obligation to pay expenses to carry out duties and powers substantially the same as or

similar to the principal duties and powers of an agency that is prohibited from using amounts under this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 925.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1347(a) ..... | 31:696(1st, 2d sentences). | June 27, 1944, ch. 286, § 213, 58 Stat. 387. |
| 1347(b) ..... | 31:696(last sentence). | |

In the section, the word ''agency'' is substituted for ''agency or instrumentality'' because of section 101 of the revised title and for consistency. The words ''amounts otherwise available for obligation'' are substituted for ''any appropriation or fund made available by this or any other Act'', and the words ''duties and powers'' are substituted for ''functions'', for consistency in the revised title.

In subsection (a), the words ''After January 1, 1945'' are omitted as executed. The words ''including those established by Executive order'' are omitted the first time they appear as surplus. The words ''from the date . . . came into existence'' are substituted for ''during the existence'' for clarity.

In subsection (b), the word ''amounts'' is substituted for ''appropriations'' for consistency in the revised title.

## § 1348. Telephone installation and charges

(a)(1) Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences.

(2) Under regulations of the Secretary of State, appropriations may be used to install and pay for the use of telephones in residences owned or leased by the United States Government in foreign countries for the use of the Foreign Service.

(b) Under regulations prescribed by the Secretary of the Army on recommendation of the Chief of Engineers, not more than $30,000 may be expended each fiscal year to install and use in private residences telephones required for official business in constructing and operating locks and dams for navigation, flood control, and related water uses.

(c) Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes, in other private residences.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 926; Pub. L. 98–407, title VIII, § 811(a), Aug. 28, 1984, 98 Stat. 1523; Pub. L. 104–201, div. A, title XVII, § 1721, Sept. 23, 1996, 110 Stat. 2758.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1348(a)(1) | 31:679(words before 2d comma). | Aug. 23, 1912, ch. 350, § 7(less proviso), 37 Stat. 414. |
| 1348(a)(2) | 31:679(proviso). | Aug. 23, 1912, ch. 350, 37 Stat. 360, § 7(proviso); added Apr. 30, 1940, ch. 175, 54 Stat. 175. |
| 1348(b) ..... | 31:679(words between 2d comma and proviso). | |
| | 31:680a. | May 10, 1939, ch. 119, § 4, 53 Stat. 738. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1348(c) ..... | 31:680. | Sept. 22, 1922, ch. 427, § 7, 42 Stat. 1042; May 17, 1950, ch. 188, § 203, 64 Stat. 170; restated June 28, 1955, ch. 198, 69 Stat. 188. |

In subsection (a)(1), the words ''or private apartment'' are omitted as being included in ''private residences''.

In subsection (a)(2), the word ''appropriations'' is substituted for ''Government funds'', and the word ''calls'' is substituted for ''tolls'', for consistency. The word ''official'' is omitted as surplus.

In subsection (b), the words ''On and after May 10, 1939'' in 31:680a are omitted as executed. The word ''agency'' is substituted for ''executive department, establishment, or agency'' for clarity and because of section 101 of the revised title. The words ''official business'' are substituted for ''public business'' in 31:679 and ''transaction of public business which the interests of the Government require to be so transacted'' in 31:680a to eliminate unnecessary words. The words ''division, bureau, or office'' in 31:679 are omitted as being included in ''agency''. The words ''or such subordinates as he may specially designate'' in 31:680a are omitted as surplus.

In subsection (c), the words ''On and after September 22, 1922 the provisions of section 679 of this title, or any other law prohibiting the expenditure of public money . . . shall not be construed to apply to or forbid'' are omitted as unnecessary because of the restatement.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–201, § 1721(1), struck out at end ''Subsection (b) of this section applies to long-distance calls made on those telephones.''

Subsecs. (b) to (d). Pub. L. 104–201, § 1721(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: ''Appropriations of an agency are available to pay charges for a long-distance call if required for official business and the voucher to pay for the call is sworn to by the head of the agency. Appropriations of an executive agency are available only if the head of the agency also certifies that the call is necessary in the interest of the Government.''

1984—Subsec. (d). Pub. L. 98–407 added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 811(b) of Pub. L. 98–407 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective as of January 1, 1984. Funds appropriated to the Department of Defense may be used to reimburse persons for expenditures made after December 31, 1983, for the installation, repair, and maintenance of telephone wiring in any Government-owned or leased housing unit before the date of the enactment of this Act [Aug. 28, 1984].''

EMPLOYEES AUTHORIZED TO WORK AT HOME

Pub. L. 104–52, title VI, § 620, Nov. 19, 1995, 109 Stat. 501, provided that: ''Notwithstanding any provisions of this or any other Act, during the fiscal year ending September 30, 1996, and hereafter, any department, division, bureau, or office may use funds appropriated by this or any other Act to install telephone lines, and necessary equipment, and to pay monthly charges, in any private residence or private apartment of an employee who has been authorized to work at home in accordance with guidelines issued by the Office of Person-

nel Management: *Provided*, That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.''

### § 1349. Adverse personnel actions

(a) An officer or employee of the United States Government or of the District of Columbia government violating section 1341(a) or 1342 of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

(b) An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 926.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1349(a) ..... | 31:665(i)(1)(words before semicolon related to (a), (b)). | R.S. §3679(i)(1)(words before semicolon related to (a), (b)); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 768. |
| 1349(b) ..... | 31:638a(c)(2)(2d sentence). | July 16, 1914, ch. 141, §5(c)(2)(2d sentence), 38 Stat. 508; restated Aug. 2, 1946, ch. 744, §16(a), 60 Stat. 810. |

In subsection (a), the words ''In addition to any penalty or liability under other law'' are omitted as surplus. The words ''District of Columbia government'' are added because of section 47–105 of the D.C. Code.

In subsection (b), the words ''of the Government'' and ''from duty'' are omitted as unnecessary because of the restatement. The word ''pay'' is substituted for ''compensation'' for consistency. The word ''agency'' is substituted for ''department'' because of section 101 of the revised title and for consistency.

### § 1350. Criminal penalty

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1341(a) or 1342 of this title shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 926.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1350 ..... | 31:665(i)(1)(words after semicolon related to (a), (b)). | R.S. §3679(i)(1)(words after semicolon related to (a), (b)); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 768. |

The words ''District of Columbia government'' are added because of section 47–105 of the D.C. Code. The words ''upon conviction'' are omitted as surplus.

### § 1351. Reports on violations

If an officer or employee of an executive agency or an officer or employee of the District of Columbia government violates section 1341(a) or 1342 of this title, the head of the agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken. A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 926; Pub. L. 108–447, div. G, title I, §1401(a), Dec. 8, 2004, 118 Stat. 3192.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1351 ..... | 31:665(i)(2)(related to (a), (b)). | R.S. §3679(i)(2)(related to (a), (b)); Mar. 3, 1905, ch. 1404, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 768. |

The words ''executive agency'' are substituted for ''agency'' because the definition of ''agency'' in 31:665(d)(2) applies to the source provisions restated in the section and because of section 102 of the revised title. The word ''Mayor'' is used because of Reorganization Plan No. 3 of 1967 (eff. Aug. 11, 1967, 81 Stat. 948) and sections 421, 422, and 771 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93–198, 87 Stat. 789, 818). The word ''President'' is substituted for ''President, through the 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

2004—Pub. L. 108–447 inserted at end ''A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.''

### § 1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in paragraph (2) of this subsection.

(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

(A) The awarding of any Federal contract.

(B) The making of any Federal grant.

(C) The making of any Federal loan.

(D) The entering into of any cooperative agreement.

(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection—

(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

(B) copies of all declarations received by such person under paragraph (5).

(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain—

(A) the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

(3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee.

(4) A person referred to in paragraph (1)(A) of this subsection shall file a declaration referred to in that paragraph—

(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;

(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and

(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

(6) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(B) A filing of a declaration of a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

(d)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law.

(2) The reporting requirement in subsection (b) of this section shall not apply to any person with respect to—

(A) payments of reasonable compensation made to regularly employed officers or em-

ployees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater, including a contract or subcontract to carry out any purpose for which such a loan is made.

(e) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

(f) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

(g) As used in this section:

(1) The term ''recipient'', with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

(2) The term ''agency'' has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

(3) The term ''person''—

(A) includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

(4) The term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(5) The term ''local government'' means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

(A) A local public authority.

(B) A special district.

(C) An intrastate district.

(D) A council of governments.

(E) A sponsor group representative organization.

(F) Any other instrumentality of a local government.

(6)(A) The terms ''Federal contract'', ''Federal grant'', ''Federal cooperative agreement'' mean, respectively—

(i) a contract awarded by an agency;

(ii) a grant made by an agency or a direct appropriation made by law to any person; and

(iii) a cooperative agreement entered into by an agency.

(B) Such terms do not include—

(i) direct United States cash assistance to an individual;

(ii) a loan;

(iii) loan insurance; or

(iv) a loan guaranty.

(7) The term ''Federal loan'' means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

(8) The term ''reasonable payment'' means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(9) The term ''reasonable compensation'' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(10) The term ''regularly employed'', with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(11) The terms ''Indian tribe'' and ''tribal organization'' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(Added Pub. L. 101–121, title III, § 319(a)(1), Oct. 23, 1989, 103 Stat. 750; amended Pub. L. 101–512, title III, § 320, Nov. 5, 1990, 104 Stat. 1977; Pub. L. 103–272, § 4(f)(1)(F), July 5, 1994, 108 Stat. 1362; Pub. L. 104–65, § 10, Dec. 19, 1995, 109 Stat. 700; Pub. L. 104–66, title III, § 3001(b), Dec. 21, 1995, 109

Stat. 734; Pub. L. 104–106, div. A, title X, § 1064(c), div. D, title XLIII, § 4301(a)(2), Feb. 10, 1996, 110 Stat. 445, 656.)

REFERENCES IN TEXT

The Lobbying Disclosure Act of 1995, referred to in subsec. (b)(2)(A), (3), is Pub. L. 104–65, Dec. 19, 1995, 109 Stat. 691, which is classified principally to chapter 26 (§ 1601 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 2 and Tables.

CODIFICATION

Another section 1352 was renumbered section 1353 of this title.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–106, § 4301(a)(2), which directed amendment of par. (2) by inserting ''and'' after the semicolon at the end of subpar. (A) and by striking out subpar. (C), was not executed because subsec. (b)(2) did not contain a subpar. (C) subsequent to amendment by Pub. L. 104–65, § 10(a)(1). See 1995 Amendment note below.

Subsec. (b)(6)(A). Pub. L. 104–106, § 1064(c)(1), which directed insertion of ''(other than the Secretary of Defense and Secretary of a military department)'' after ''The head of each agency'', could not be executed because subsec. (b)(6) did not contain a subpar. (A) subsequent to amendment by Pub. L. 104–65, § 10(a)(3). See 1995 Amendment note below.

Subsec. (d)(1). Pub. L. 104–106, § 1064(c)(2), which directed the insertion of ''(other than in the case of the Department of Defense or a military department)'' after ''paragraph (3) of this subsection'', could not be executed because subsec. (d)(1) did not contain phrase ''paragraph (3) of this subsection'' subsequent to amendment by Pub. L. 104–65, § 10(b). See 1995 Amendment note below.

1995—Subsec. (b)(2). Pub. L. 104–65, § 10(a)(1), added subpars. (A) and (B) and struck out former subpars. (A) to (C) which read as follows:

''(A) a statement setting forth whether such person—

''(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

''(ii) has agreed to make any such payment;

''(B) with respect to each such payment (if any) and each such agreement (if any)—

''(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

''(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

''(iii) the amount paid, to be paid, or reasonably expected to be paid;

''(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

''(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

''(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).''

Subsec. (b)(3). Pub. L. 104–65, § 10(a)(2), substituted ''shall contain the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee.'' for ''shall contain—'' and struck out subpars. (A) and (B) which read as follows:

''(A) a statement setting forth whether such person—

''(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guaranty; or

''(ii) has agreed to make any such payment; and

''(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.''

Subsec. (b)(6), (7). Pub. L. 104–65, § 10(a)(3), redesignated par. (7) as (6), and struck out former par. (6) which directed head of each agency to collect and compile detailed information on any unappropriated payments under Federal contracts, and report such information to the appropriate congressional officer or committee.

Subsecs. (d) to (h). Pub. L. 104–65, § 10(b), and Pub. L. 104–66, § 3001(b), amended section identically, redesignating subsecs. (e) to (h) as (d) to (g), respectively, and striking out former subsec. (d) which directed the Inspector General or official of each agency to submit annual reports to Congress on the compliance of each agency with the requirements imposed by this section.

1994—Subsec. (c). Pub. L. 103–272, § 4(f)(1)(F)(i), substituted ''(c)(1) Any person'' for ''(C)(1) Any person''.

Subsec. (e)(1)(C). Pub. L. 103–272, § 4(f)(1)(F)(ii), substituted ''appropriated'' for ''appropirated'' and inserted period at end.

Subsec. (h)(7). Pub. L. 103–272, § 4(f)(1)(F)(iii), inserted periods after ''agency'' and ''guaranty''.

1990—Subsec. (e)(2)(C). Pub. L. 101–512 inserted ''or the single family maximum mortgage limit for affected programs, whichever is greater,'' after ''$150,000,''.

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 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE

Section 319(d) of Pub. L. 101–121 provided that: ''Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitments that are entered into or made more than 60 days after the date of the enactment of this Act [Oct. 23, 1989].''

FIRST REPORT ON MAY 31, 1990; CONTENT

Section 319(b) of Pub. L. 101–121 provided that the first report submitted under former subsec. (b)(6) of this section was to be submitted on May 31, 1990, and was to contain a compilation relating to the statements received under subsec. (b) of this section during the six-month period beginning on Oct. 1, 1989.

NOTIFICATION OF COMPLIANCE DATE; GUIDANCE FOR AGENCY IMPLEMENTATION

Section 319(c) of Pub. L. 101–121 provided that: ''The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act [Oct. 23, 1989]. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) [now (b)(6)] of such section.''

## § 1353. Acceptance of travel and related expenses from non-Federal sources

(a) Notwithstanding any other provision of law, the Administrator of General Services, in consultation with the Director of the Office of

Government Ethics, shall prescribe by regulation the conditions under which an agency in the executive branch (including an independent agency) may accept payment, or authorize an employee of such agency to accept payment on the agency's behalf, from non-Federal sources for travel, subsistence, and related expenses with respect to attendance of the employee (or the spouse of such employee) at any meeting or similar function relating to the official duties of the employee. Any cash payment so accepted shall be credited to the appropriation applicable to such expenses. In the case of a payment in kind so accepted, a pro rata reduction shall be made in any entitlement of the employee to payment from the Government for such expenses.

(b) Except as provided in this section or section 4111 or 7342 of title 5, an agency or employee may not accept payment for expenses referred to in subsection (a). An employee who accepts any payment in violation of the preceding sentence—

(1) may be required, in addition to any penalty provided by law, to repay, for deposit in the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and

(2) in the case of a repayment under paragraph (1), shall not be entitled to any payment from the Government for such expenses.

(c) As used in this section—

(1) the term ''executive branch'' means all executive agencies (as such term is defined in section 105 of title 5); and

(2) the term ''employee in the executive branch'' means—

(A) an appointed officer or employee in the executive branch; and

(B) an expert or consultant in the executive branch, under section 3109 of title 5; and

(3) the term ''payment'' means a payment or reimbursement, in cash or in kind.

(d)(1) The head of each agency of the executive branch shall, in the manner provided in paragraph (2), submit to the Director of the Office of Government Ethics reports of payments of more than $250 accepted under this section with respect to employees of the agency. The Director shall make such reports available for public inspection and copying.

(2) The reports required by paragraph (1) shall, with respect to each payment—

(A) specify the amount and method of payment, the name of the person making the payment, the name of the employee, the nature of the meeting or similar function, the time and place of travel, the nature of the expenses, and such other information as the Administrator of General Services may prescribe by regulation under subsection (a);

(B) be submitted not later than May 31 of each year with respect to payments in the preceding period beginning on October 1 and ending on March 31; and

(C) be submitted not later than November 30 of each year with respect to payments in the preceding period beginning on April 1 and ending on September 30.

(Added Pub. L. 101–194, title III, § 302(a), Nov. 30, 1989, 103 Stat. 1745, § 1352; renumbered § 1353 and amended Pub. L. 101–280, § 4(b)(1), (c), May 4, 1990, 104 Stat. 157, 158.)

AMENDMENTS

1990—Pub. L. 101–280, § 4(b)(1), renumbered section 1352 of this title as this section.

Subsec. (a). Pub. L. 101–280, § 4(c)(1), substituted ''in the executive branch (including an independent agency) may accept payment, or authorize an employee of such agency to accept payment on the agency's behalf,'' for ''or employee in the executive branch may accept payment''.

Subsec. (b). Pub. L. 101–280, § 4(c)(2)(A), inserted ''or 7342'' after ''section 4111''.

Subsec. (b)(2). Pub. L. 101–280, § 4(c)(2)(B), substituted ''(1),'' for ''(1)''.

Subsec. (c)(1). Pub. L. 101–280, § 4(c)(3), substituted ''all executive agencies'' for ''any executive agency''.

### § 1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements

(a)(1) Subject to paragraph (2), no agency may obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(d) of that title with respect to the preceding fiscal year if such contractor did not submit such report.

(2) Paragraph (1) shall cease to apply with respect to a contractor otherwise covered by that paragraph on the date on which the contractor submits the report required by such section 4212(d) for the fiscal year concerned.

(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).

(Added Pub. L. 105–339, § 7(b)(1), Oct. 31, 1998, 112 Stat. 3189.)

## CHAPTER 15—APPROPRIATION ACCOUNTING

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AMENDMENTS

1996—Pub. L. 104–106, div. E, title LV, § 5502(c), Feb. 10, 1996, 110 Stat. 699, substituted ''of a formal protest or other challenge'' for ''of a protest'' in item 1558.

1992—Pub. L. 102–484, div. A, title X, § 1054(e)(1), Oct. 23, 1992, 106 Stat. 2503, substituted ''Definitions; applicability of subchapter'' for ''Definitions and application'' in item 1551 and ''Procedure for appropriation accounts available for definite periods'' for ''Audit, control, and reporting'' in item 1552.

1990—Pub. L. 101–510, div. A, title XIV, § 1405(a)(2), Nov. 5, 1990, 104 Stat. 1679, substituted ''Audit, control, and reporting'' for ''Procedure for appropriation accounts available for definite periods'' in item 1552 and for ''Review of appropriation accounts'' in item 1554, ''Closing of appropriation accounts available'' for ''Withdrawal of unobligated balances of appropriations'' in item 1555, ''General: reports'' for ''General reports'' in item 1556, and ''Authority for exemptions in appropriation laws'' for ''Authorization to exempt'' in item 1557.

1989—Pub. L. 101–189, div. A, title VIII, § 813(b), Nov. 29, 1989, 103 Stat. 1494, added item 1558.

## SUBCHAPTER I—GENERAL

### § 1501. Documentary evidence requirement for Government obligations

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

(A) when necessary because of a public exigency;

(B) for perishable subsistence supplies; or

(C) within specific monetary limits;

(5) a grant or subsidy payable—

(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

(B) under an agreement authorized by law; or

(C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 927.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1501(a) ..... | 31:200(a). | Aug. 26, 1954, ch. 935, § 1311(a), (e), 68 Stat. 830, 831. |
| 1501(b) ..... | 31:200(e). | |

In subsection (a), before clause (1), the words ''After August 26, 1954'' are omitted as executed. In clause (1), the words ''an agency and another person (including an agency)'' are substituted for ''the parties thereto, including Government agencies'' for clarity. In clause (2), the word ''valid'' is omitted as unnecessary. In clause (6), the words ''brought under authority of law'' are omitted as surplus. In clause (9), the word ''legally'' is omitted as surplus.

In subsection (b), the words ''consistent with'' are substituted for ''as defined in'' for clarity and for consistency with section 1108 of the revised title. The word ''valid'' is omitted as unnecessary.

### § 1502. Balances available

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 928.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1502(a) ..... | 31:200(d). | Aug. 26, 1954, ch. 935, § 1311(d), 68 Stat. 831. |
| | 31:712a. | July 6, 1949, ch. 299, § 1, 63 Stat. 407. |
| 1502(b) ..... | 31:665b. | July 1, 1973, Pub. L. 93–52, § 111, 87 Stat. 134. |

Subsection (a) restates the source provisions to eliminate unnecessary words and for consistency.

In subsection (b), the words ''balance of an appropriation or fund'' are substituted for ''unexpended funds'' for clarity and consistency in the revised chapter.

AVAILABILITY OF ENERGY AND WATER DEVELOPMENT APPROPRIATIONS LIMITED TO FISCAL YEAR IN WHICH APPROPRIATED

Pub. L. 102–377, title V, § 501, Oct. 2, 1992, 106 Stat. 1342, provided that: ''No part of any appropriation contained in this Act or subsequent Energy and Water Development Appropriations Acts shall remain available for obligation beyond the fiscal year specified in such Acts therein unless expressly so provided therein.''

### § 1503. Comptroller General reports of amounts for which no accounting is made

The Comptroller General shall make a special report each year to Congress on recommendations for changes in laws, that the Comptroller General believes may be in the public interest, about amounts—

(1) for which no accounting is made to the Comptroller General; and

(2) that are in—

(A) accounts of the United States Government; or

(B) the custody of an officer or employee of the Government if the Government is financially concerned.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 928.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1503 ..... | 31:725w. | June 26, 1934, ch. 756, § 24, 48 Stat. 1236; Aug. 30, 1954, ch. 1076, § 1(31), 68 Stat. 968. |

The words ''shall cause a survey to be made'' are omitted as executed. The word ''existing'' is omitted as surplus.

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 certain reporting requirements under this section are listed on page 9), 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.

## SUBCHAPTER II—APPORTIONMENT

### § 1511. Definition and application

(a) In this subchapter, ''appropriations'' means—

(1) appropriated amounts;

(2) funds; and

(3) authority to make obligations by contract before appropriations.

(b) This subchapter does not apply to—

(1) amounts (except amounts for administrative expenses) available—

(A) for price support and surplus removal of agricultural commodities; and

(B) under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c);

(2) a corporation getting amounts to make loans (except paid in capital amounts) without legal liability on the part of the United States Government; and

(3) the Senate, the House of Representatives, a committee of Congress, a member, officer, employee, or office of either House of Congress, or the Office of the Architect of the Capitol or an officer or employee of that Office.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 928.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1511(a) ..... | 31:665(c)(1)(last sentence), (d)(2)(5th sentence). | R.S. § 3679(c)(1)(last sentence), (d)(2)(5th sentence, 6th sentence less 1st–22d words, last sentence related to price supports), (f)(2); Mar. 3, 1905, ch. 1484, § 4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 765, 766, 767. |
| 1511(b)(1) | 31:665(d)(2)(6th sentence less 1st–22d words). | |
| 1511(b)(2) | 31:665(d)(2)(last sentence related to price supports). | |
| 1511(b)(3) | 31:665(f)(2). | |

In subsection (a)(1), the words ''appropriated amounts'' are substituted for ''appropriations'' for clarity. In clause (3), the word ''make'' is substituted for ''create'' as being more precise. The text of 31:665(d)(2)(5th sentence) is omitted as unnecessary because of section 102 of the revised title.

In subsection (b), the word ''amounts'' is substituted for ''funds'' for consistency in the revised title. In clause (1)(B), the words ''(7 U.S.C. 612c)'' are substituted for ''section 612(c) of title 7'' to correct an error in section 3679(d)(2)(6th sentence) of the Revised Statutes. Clause (2) is substituted for the source provisions for consistency in the revised title.

### § 1512. Apportionment and reserves

(a) Except as provided in this subchapter, an appropriation available for obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for the period. An appropriation for an indefinite period and authority to make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use. An apportionment may be reapportioned under this section.

(b)(1) An appropriation subject to apportionment is apportioned by—

(A) months, calendar quarters, operating seasons, or other time periods;

(B) activities, functions, projects, or objects; or

(C) a combination of the ways referred to in clauses (A) and (B) of this paragraph.

(2) The official designated in section 1513 of this title to make apportionments shall apportion an appropriation under paragraph (1) of this subsection as the official considers appropriate. Except as specified by the official, an amount apportioned is available for obligation under the terms of the appropriation on a cumulative basis unless reapportioned.

(c)(1) In apportioning or reapportioning an appropriation, a reserve may be established only—

(A) to provide for contingencies;

(B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(C) as specifically provided by law.

(2) A reserve established under this subsection may be changed as necessary to carry out the scope and objectives of the appropriation concerned. When an official designated in section 1513 of this title to make apportionments decides that an amount reserved will not be required to carry out the objectives and scope of the appropriation concerned, the official shall recommend the rescission of the amount in the way provided in chapter 11 of this title for appropriation requests. Reserves established under this section shall be reported to Congress as provided in the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

(d) An apportionment or a reapportionment shall be reviewed at least 4 times a year by the official designated in section 1513 of this title to make apportionments.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 929.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1512(a) ..... | 31:665(c)(1)(1st sentence), (4)(words after 1st comma). | R.S. §3679(c)(1)(1st sentence), (3), (4); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 765, 766. |
| 1512(b) ..... | 31:665(c)(3). | |
| 1512(c) ..... | 31:665(c)(2). | R.S. §3679(c)(2); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; Sept. 6, 1950, ch. 896, §1211, 64 Stat. 765; restated July 12, 1974, Pub. L. 93–344, §1002, 88 Stat. 332. |
| 1512(d) ..... | 31:665(c)(4)(words before 1st comma). | |

In subsection (a), the word ''appropriation'' is substituted for ''appropriations or funds'' because of the definition of ''appropriation'' in section 1511 of the revised title. The words ''at a rate'' are substituted for ''in a manner'' for clarity. The words ''indefinite period'' are substituted for ''not limited to a definite period of time'' for consistency in the revised title. The words ''An apportionment may be reapportioned under this section'' are substituted for 31:665(c)(4)(words after 1st comma) to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the word ''apportioned'' is substituted for ''distributed'' for consistency in the revised section.

In subsections (b)(2) and (d), the word ''official'' is substituted for ''officer'' for consistency in the revised title.

In subsection (c)(1)(C), the words ''by law'' are substituted for ''by particular appropriation Acts or other laws'' to eliminate unnecessary words.

In subsection (c)(2), the words ''appropriation requests'' are substituted for ''estimates of appropriations'' for consistency with chapter 11 of the revised title.

REFERENCES IN TEXT

The Impoundment Control Act of 1974, referred to in subsec. (c)(2), is parts A and B of title X of Pub. L. 93–344, July 12, 1974, 88 Stat. 332, as amended, which is classified principally to subchapters I (§681) and II (§682 et seq.) of chapter 17B of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 681 of Title 2 and Tables.

APPORTIONMENT OF FUNDS APPROPRIATED TO DISTRICT OF COLUMBIA GOVERNMENT

Pub. L. 100–202, §101(c) [title I, §135], Dec. 22, 1987, 101 Stat. 1329–90, 1329–102, provided that: ''Federal funds hereafter appropriated to the District of Columbia government shall not be subject to apportionment except to the extent specifically provided by statute.''

## § 1513. Officials controlling apportionments

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government that is required to be apportioned under section 1512 of this title shall apportion the appropriation in writing. An appropriation shall be apportioned not later than the later of the following:

(1) 30 days before the beginning of the fiscal year for which the appropriation is available; or

(2) 30 days after the date of enactment of the law by which the appropriation is made available.

(b)(1) The President shall apportion in writing an appropriation available to an executive agency (except the Commission) that is required to be apportioned under section 1512 of this title. The head of each executive agency to which the appropriation is available shall submit to the President information required for the apportionment in the form and the way and at the time specified by the President. The information shall be submitted not later than the later of the following:

(A) 40 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 15 days after the date of enactment of the law by which the appropriation is made available.

(2) The President shall notify the head of the executive agency of the action taken in apportioning the appropriation under paragraph (1) of this subsection not later than the later of the following:

(A) 20 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 30 days after the date of enactment of the law by which the appropriation is made available.

(c) By the first day of each fiscal year, the head of each executive department of the United States Government shall apportion among the major organizational units of the department the maximum amount to be expended by each unit during the fiscal year out of each contingent fund appropriated for the entire year for the department. Each amount may be changed during the fiscal year only by written direction of the head of the department. The direction shall state the reasons for the change.

(d) An appropriation apportioned under this subchapter may be divided and subdivided administratively within the limits of the apportionment.

(e) This section does not affect the initiation and operation of agricultural price support programs.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 930.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1513(a) ..... | 31:665(d)(1). | R.S. §3679(d)(1), (2)(1st–4th sentences, 6th sentence 1st–22d words), (g)(1st sentence); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 766, 767; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085; Jan. 3, 1975, Pub. L. 93–618, §175(a)(2), 88 Stat. 2011. |
| 1513(b) ..... | 31:665(d)(2)(1st–4th sentences). | |
| 1513(c) ..... | 31:669(words before semicolon). | Aug. 23, 1912, ch. 350, §6(words before semicolon), 37 Stat. 414. |
| 1513(d) ..... | 31:665(g)(1st sentence). | |
| 1513(e) ..... | 31:665(d)(2)(6th sentence 1st–22d words). | |

In the section, the word ''apportion'' is substituted for ''apportionment or reapportionment'' because of section 1512(a)(last sentence) of the revised title.

In subsection (a), before clause (1), the word ''official'' is substituted for ''officer'' for consistency in the revised title. The words ''judicial branch'' are substituted for ''judiciary'', and the words ''District of Columbia government'' are substituted for ''District of Columbia'', for consistency.

In subsection (b), the word ''President'' is substituted for ''Director of the Office of Management and Budget'', ''Office of Management and Budget'', and ''Director'' 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.

In subsection (b)(1), the words ''(except the Commission)'' are added because the International Trade Commission is covered specifically by the source provisions restated in subsection (a).

In subsection (b)(2), the words ''head of the executive agency'' are substituted for ''agency'' as being more precise and because of section 102 of the revised title.

In subsection (c), the words ''In addition to the apportionment required by section 665 of this title'' are omitted as unnecessary because of the restatement. The words ''By the first day'' are substituted for ''on or before the beginning'', and the words ''of the United States Government'' are added, for clarity. The words ''major organizational unit'' are substituted for ''office or bureau'' for consistency in the revised section. The word ''changed'' is substituted for ''increased or diminished'' to eliminate unnecessary words.

In subsection (e), the words ''initiation and operation'' are substituted for ''initiation, operation, and administration'' to eliminate unnecessary words.

## § 1514. Administrative division of apportionments

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government, and, subject to the approval of the President, the head of each executive agency (except the Commission) shall prescribe by regulation a system of administrative control not inconsistent with accounting procedures prescribed under law. The system shall be designed to—

(1) restrict obligations or expenditures from each appropriation to the amount of apportionments or reapportionments of the appropriation; and

(2) enable the official or the head of the executive agency to fix responsibility for an obligation or expenditure exceeding an apportionment or reapportionment.

(b) To have a simplified system for administratively dividing appropriations, the head of each executive agency (except the Commission) shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative division for each appropriation affecting the unit.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 930.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1514(a) ..... | 31:665(g)(2d sentence). | R.S. §3679(g)(2d sentence); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 767; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085; Jan. 3, 1975, Pub. L. 93–618, §175(a)(2), 88 Stat. 2011. |
| 1514(b) ..... | 31:665(g)(last sentence). | R.S. §3679(g)(last sentence); added Aug. 1, 1956, ch. 814, §3, 70 Stat. 783. |

In the section, the words ''(except the Commission)'' are added because the International Trade Commission is covered specifically by the source provisions restated in this section.

In subsection (a), the word ''official'' is substituted for ''officer'' for consistency in the revised title. The words ''judicial branch'' are substituted for ''judiciary'', and the words ''District of Columbia government'' are substituted for ''District of Columbia'', 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) designated 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), the words ''dividing'' and ''division'' are substituted for ''subdivision'' for consistency in the revised section. The word ''appropriations'' is substituted for ''appropriations or funds'' because of the definition of ''appropriation'' in section 1511 of the revised title.

## § 1515. Authorized apportionments necessitating deficiency or supplemental appropriations

(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.

(b)(1) Except as provided in subsection (a) of this section, an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of—

(A) a law enacted after submission to Congress of the estimates for an appropriation

that requires an expenditure beyond administrative control; or

(B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.

(2) If an official making an apportionment decides that an apportionment would indicate a necessity for a deficiency or supplemental appropriation, the official shall submit immediately a detailed report of the facts to Congress. The report shall be referred to in submitting a proposed deficiency or supplemental appropriation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 931; Pub. L. 100–202, § 105, Dec. 22, 1987, 101 Stat. 1329–433.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1515(a) ..... | 31:665a. | June 5, 1957, Pub. L. 85–48, § 210, 71 Stat. 55. |
| 1515(b)(1) | 31:665(e)(1). | R.S. § 3679(e)(1); Mar. 3, 1905, ch. 1484, § 4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 767; restated Aug. 28, 1957, Pub. L. 85–170, § 1401, 71 Stat. 440. |
| 1515(b)(2) | 31:665(e)(2). | R.S. § 3679(e)(2); Mar. 3, 1905, ch. 1484, § 4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 767. |

In subsection (a), the words ''On and after June 5, 1957'' are omitted as executed. The words ''deficiency or supplemental appropriation'' are substituted for ''supplemental or deficiency estimate of appropriation'' for consistency with chapter 11 of the revised title. The words ''prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5'' are substituted for ''those employees (commonly known as wage-board employees) whose compensation is fixed and adjusted from time to time in accordance with prevailing rates (5 U.S.C. 5102(c)(7), 5341 et seq.)'' for consistency with title 5.

In subsection (b), the word ''apportionment'' is substituted for ''apportionment or reapportionment'' because of section 1512(a)(last sentence) of the revised title.

In subsection (b)(1), before clause (A), the words ''Except as provided in subsection (a) of this section'' are added because of the restatement. The word ''appropriation'' is substituted for ''estimate'' for consistency in the revised section. The words ''is insufficient'' are added for clarity.

In subsection (b)(2), the words ''proposed deficiency or supplemental appropriation'' are substituted for ''deficiency or supplemental estimates'' for consistency with chapter 11 of the revised title.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–202 added subsec. (a) and struck out former subsec. (a) which read as follows: ''An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates a necessity for a deficiency or supplemental appropriation to the extent necessary to permit payment of pay increases for prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5.''

## § 1516. Exemptions

An official designated in section 1513 of this title to make apportionments may exempt from apportionment—

(1) a trust fund or working fund if an expenditure from the fund has no significant effect on the financial operations of the United States Government;

(2) a working capital fund or a revolving fund established for intragovernmental operations;

(3) receipts from industrial and power operations available under law; and

(4) appropriations made specifically for—

(A) interest on, or retirement of, the public debt;

(B) payment of claims, judgments, refunds, and drawbacks;

(C) items the President decides are of a confidential nature;

(D) payment under a law requiring payment of the total amount of the appropriation to a designated payee; and

(E) grants to the States under the Social Security Act (42 U.S.C. 301 et seq.).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 931.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1516 ..... | 31:665(f)(1). | R.S. § 3679(f)(1); Mar. 3, 1905, ch. 1484, § 4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 767. |

In the section, before clause (1), the word ''apportionments'' is substituted for ''apportionments and reapportionments'' because of section 1512(a)(last sentence) of the revised title. In subclause (D), the word ''law'' is substituted for ''private relief acts or other laws'' to eliminate unnecessary words.

REFERENCES IN TEXT

The Social Security Act, referred to in par. (4)(E), 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. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

## § 1517. Prohibited obligations and expenditures

(a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding—

(1) an apportionment; or

(2) the amount permitted by regulations prescribed under section 1514(a) of this title.

(b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section, the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken. A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 932; Pub. L. 108–447, div. G, title I, § 1401(b), Dec. 8, 2004, 118 Stat. 3192.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1517(a) ..... | 31:665(h). | R.S. §3679(h), (i)(2)(related to (h)); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 768. |
| 1517(b) ..... | 31:665(i)(2)(related to (h)). | |

In subsection (a), before clause (1), the words ''District of Columbia government'' are added because of section 9 of the Act of June 26, 1912 (ch. 182, 37 Stat. 184). In clause (1), the word ''apportionment'' is substituted for ''apportionment or reapportionment'' because of section 1512(a)(last sentence) of the revised title.

In subsection (b), the word ''Mayor'' is used because of Reorganization Plan No. 3 of 1967 (eff. Aug. 11, 1967, 81 Stat. 948) and sections 421, 422, and 771 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93–198, 87 Stat. 789, 818). The word ''President'' is substituted for ''President, through the 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

2004—Subsec. (b). Pub. L. 108–447 inserted at end ''A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.''

### § 1518. Adverse personnel actions

An officer or employee of the United States Government or of the District of Columbia government violating section 1517(a) of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 932.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1518 ..... | 31:665(i)(1)(words before semicolon related to (h)). | R.S. §3679(i)(1)(words before semicolon related to (h)); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 768. |

The words ''In addition to any penalty or liability under other law'' are omitted as surplus. The words ''District of Columbia government'' are added because of section 9 of the Act of June 26, 1912 (ch. 182, 37 Stat. 184).

### § 1519. Criminal penalty

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1517(a) of this title shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 932.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1519 ..... | 31:665(i)(1)(words after semicolon related to (h)). | R.S. §3679(i)(1)(words after semicolon related to (h)); Mar. 3, 1905, ch. 1484, §4(1st par.), 33 Stat. 1257; Feb. 27, 1906, ch. 510, §3, 34 Stat. 48; restated Sept. 6, 1950, ch. 896, §1211, 64 Stat. 768. |

The words ''District of Columbia government'' are added because of section 9 of the Act of June 26, 1912 (ch. 182, 37 Stat. 184).

## SUBCHAPTER III—TRANSFERS AND REIMBURSEMENTS

### § 1531. Transfers of functions and activities

(a) The balance of an appropriation available and necessary to finance or discharge a function or activity transferred or assigned under law within an executive agency or from one executive agency to another may be transferred to and used—

(1) by the organizational unit or agency to which the function or activity was transferred or assigned; and

(2) for a purpose for which the appropriation was originally available.

(b) The head of the executive agency determines the amount that, with the approval of the President, is necessary to be transferred when the transfer or assignment of the function or activity is within the agency. The President determines the amount necessary to be transferred when the transfer or assignment of the function or activity is from one executive agency to another.

(c) A balance transferred under this section is—

(1) credited to an applicable existing or new appropriation account;

(2) merged with the amount in an account to which the balance is credited; and

(3) with the amount with which the balance is merged, accounted for as one amount.

(d) New appropriation accounts may be established to carry out subsection (c)(1) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 932.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1531(a), (b). | 31:581c(a)(1st sentence), (b)(1st sentence). | Sept. 12, 1950, ch. 946, §202, 64 Stat. 838. |
| 1531(c), (d). | 31:581c(a)(last sentence), (b)(last sentence). | |

In subsections (a) and (b), the defined term ''executive agency'' in section 102 of the revised title is substituted for ''department or establishment'' for consistency and clarity.

In subsection (a), the words ''organizational unit or agency'' are substituted for ''agency'', and the word ''appropriation'' is substituted for ''said funds'', for consistency and clarity.

Subsection (d) is substituted for ''which are hereby authorized to be established'' because of the restatement.

PROHIBITION ON TRANSFER OF FUNDS TO OTHER DEPARTMENTS AND AGENCIES

Pub. L. 101–189, div. A, title XVI, § 1604, Nov. 29, 1989, 103 Stat. 1598, provided that funds available for military functions of Department of Defense could not be made available to any other department or agency of Federal Government pursuant to a provision of law enacted after Nov. 29, 1989, unless, not less than 30 days before such funds were made available to such other department or agency, Secretary of Defense submitted to congressional defense committees a report describing effect on military preparedness of making such funds available to such department or agency, prior to repeal and restatement in section 2215 of Title 10, Armed Forces, by Pub. L. 103–160, div. A, title XI, § 1106(a)(1), (b), Nov. 30, 1993, 107 Stat. 1750.

### § 1532. Withdrawal and credit

An amount available under law may be withdrawn from one appropriation account and credited to another or to a working fund only when authorized by law. Except as specifically provided by law, an amount authorized to be withdrawn and credited is available for the same purpose and subject to the same limitations provided by the law appropriating the amount. A withdrawal and credit is made by check and without a warrant.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 933.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1532 ..... | 31:628–1. | Sept. 6, 1950, ch. 896, § 1210(less last proviso), 64 Stat. 765. |

The word ''limitations'' is substituted for ''limitations, conditions, and restrictions'' to eliminate unnecessary words.

### § 1533. Transfers of appropriations for salaries and expenses to carry out national defense responsibilities

An appropriation of an executive agency for salaries and expenses is available to carry out national defense responsibilities assigned to the agency under law. A transfer necessary to carry out this section may be made between appropriations or allocations within the executive agency. An allocation may not be made to an executive agency that can carry out with its regular personnel a defense activity assigned to it by using the authority of this section to realign its regular programs.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 933.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1533 ..... | 31:697. | June 2, 1951, ch. 121, ch. XI(proviso immediately before heading ''Independent Offices''), 65 Stat. 61. |

The words ''executive agency'' are substituted for ''department, agency, or corporation, in the executive branch of the Government'' because of section 102 of the revised title. The words ''authority of this section'' are substituted for ''foregoing authority'' for clarity.

### § 1534. Adjustments between appropriations

(a) An appropriation available to an agency may be charged at any time during a fiscal year for the benefit of another appropriation available to the agency to pay costs—

(1) when amounts are available in both the appropriation to be charged and the appropriation to be benefited; and

(2) subject to limitations applicable to the appropriations.

(b) Amounts paid under this section are charged on a final basis during, or as of the close of, the fiscal year to the appropriation benefited. The appropriation charged under subsection (a) of this section shall be appropriately credited.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 933.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1534(a) ..... | 31:628a(1st sentence). | June 29, 1966, Pub. L. 89–473, § 1, 80 Stat. 221. |
| 1534(b) ..... | 31:628a(last sentence). | |

In subsection (a), the words ''Subject to limitations applicable with respect to each appropriation concerned'' are omitted as surplus. The words ''or any bureau or office thereof'' are omitted as being included in ''agency''. The words ''to pay costs'' are substituted for ''for the purpose of financing the procurement of materials and services, or financing other costs'' to eliminate unnecessary words.

In subsection (b), the words ''amounts paid under this section'' are substituted for ''such expenses so financed'', and the words ''appropriations charged under subsection (a) of this section'' are substituted for ''financing appropriation'', for clarity.

### § 1535. Agency agreements

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—

(1) amounts are available;

(2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;

(3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and

(4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

(b) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(c) A condition or limitation applicable to amounts for procurement of an agency or unit placing an order or making a contract under this section applies to the placing of the order or the making of the contract.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not—

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 933; Pub. L. 98–216, § 1(2), Feb. 14, 1984, 98 Stat. 3.)

HISTORICAL AND REVISION NOTES

1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1535(a) ..... | 31:686(a)(1st sentence words before 15th comma, last proviso). | Mar. 4, 1915, ch. 143, § 1(3d proviso on p. 1084), 38 Stat. 1084; May 21, 1920, ch. 194, § 7(a), 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; restated July 20, 1942, ch. 507, 56 Stat. 661; Aug. 23, 1958, Pub. L. 85–726, § 1407, 72 Stat. 808; Aug. 6, 1981, Pub. L. 97–31, § 12(11), 95 Stat. 154; Dec. 29, 1981, Pub. L. 97–136, § 11, 95 Stat. 1707. |
| 1535(b) ..... | 31:686(a)(1st sentence 1st proviso). | |
| 1535(c) ..... | 31:686(a)(1st sentence words between 15th comma and 1st proviso, last sentence). | |
| 1535(d) ..... | 31:686(c). | May 21, 1920, ch. 194, § 7(c), 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; restated June 26, 1943, ch. 150, § 1, 57 Stat. 219. |
| | 31:686–1. | Sept. 6, 1950, ch. 896, § 1210(last proviso), 64 Stat. 765. |
| 1535(e)(1) | 31:686b(a), (b). | June 30, 1932, ch. 314, § 602(a), (b), (c)(related to § 602), 47 Stat. 418. |
| 1535(e)(2) | 31:686b(c)(related to 31:686, 686b). | |

In the section, the word ''agency'' is substituted for ''executive department or independent establishment of the Government'' for clarity. See 12 Comp. Gen. 442 (1932) and *United States v. Mitchell*, 425 F. Supp. 917 (D.D.C. 1976). The words ''major organizational unit'' or ''unit'' are substituted for ''bureau or office'' for consistency in the revised title. The words ''to fill the order'' or ''filling the order'' are substituted for ''such requisitioned'' and ''as may be requisitioned'' for clarity and because of the restatement. The words ''goods or services'' are substituted for ''materials, supplies, equipment, work, or services'' to eliminate unnecessary words.

In subsection (a)(4), the words ''the head of the agency decides'' are added, and the words ''commercial enterprise'' are substituted for ''private agencies'', for clarity. The words ''by competitive bids'' are omitted as surplus because of various procurement laws.

In subsection (b), the words ''The Secretary of Defense'' are added for clarity because of Comptroller General decision B–20179 (Apr. 1, 1981). The words ''a military department of the Department of Defense'' are substituted for ''the Department of the Army, Navy Department'' for consistency with title 10 and to apply the source provisions to the Department of the Air Force because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488). The words ''Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard'' are substituted for ''Federal Aviation Agency, Coast Guard'' to reflect the transfer of those functions to the Secretary of Transportation. The words ''the Administrator of General Services'' are added to reflect the transfer of the functions of the Bureau of Federal Supply of the Treasury Department to the Administrator by section 102(a) of the Act of June 30, 1949 (40:752(a)). The words ''the Administrator of'' are added before ''Maritime Administration'' for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (c), the words ''pursuant to such order'' are omitted as unnecessary.

Subsection (d) is substituted for the source provisions being restated to reflect decisions of the Comptroller General, including 31 Comp. Gen. 83 (1951), 34 Comp. Gen. 418 (1955), 39 Comp. Gen. 317 (1959), and 55 Comp. Gen. 1497 (1976).

In subsection (e), the words ''any Government department or independent establishment, or any bureau or office thereof'' and ''except as otherwise provided by law'' are omitted as unnecessary because of the restatement. The text of 31:686b(a) is omitted as executed.

1984 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1535(a) ..... | 31 App.:686(a) (1st sentence words before 15th comma, proviso) | May 21, 1920, ch. 194, § 7(a) (1st, 2d sentences), 41 Stat. 613; June 30, 1932, ch. 314, § 601, 47 Stat. 417; restated July 20, 1942, ch. 507, 56 Stat. 661; Aug. 23, 1958, Pub. L. 85–726, § 1407, 72 Stat. 808; Aug. 6, 1981, Pub. L. 97–136, § 11, 95 Stat. 1707; Oct. 15, 1982, Pub. L. 97–332, § 1(1)–(3), 96 Stat. 1622. |
| 1535(b) ..... | 31 App.:686(a) (1st sentence words between 15th comma and proviso, 2d sentence) | |
| 1535(c) ..... | 31 App.:686(a) (last sentence) | May 21, 1920, ch. 194, 41 Stat. 607, § 7(a) (last sentence); added Oct. 15, 1982, Pub. L. 97–332, § 1(4), 96 Stat. 1622. |

AMENDMENTS

1984—Subsec. (a)(3). Pub. L. 98–216, § 1(2)(A), inserted ''or get by contract'' after ''provide''.

Subsec. (a)(4). Pub. L. 98–216, § 1(2)(B), inserted ''by contract'' after ''provided''.

Subsecs. (b), (c). Pub. L. 98–216, § 1(2)(C)–(E), redesignated subsec. (c) as (b). Former subsec. (b), which provided that the Secretary of Defense, the Secretary of a military department of the Department of Defense, the Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard, the Secretary of the Treasury, the Administrator of General Services, and the Administrator of the Maritime Administration could place orders under this section for goods and services that an agency or unit filling the order might be able to provide or procure by contract, was struck out.

PREVENTING ABUSE OF INTERAGENCY CONTRACTS

Pub. L. 110–417, [div. A], title VIII, § 865, Oct. 14, 2008, 122 Stat. 4550, provided that:

''(a) OFFICE OF MANAGEMENT AND BUDGET POLICY GUIDANCE.—

''(1) REPORT AND GUIDELINES.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], the Director of the Office of Management and Budget shall—

''(A) submit to Congress a comprehensive report on interagency acquisitions, including their frequency of use, management controls, cost-effectiveness, and savings generated; and

''(B) issue guidelines to assist the heads of executive agencies in improving the management of interagency acquisitions.

''(2) MATTERS COVERED BY GUIDELINES.—For purposes of paragraph (1)(B), the Director shall include guidelines on the following matters:

''(A) Procedures for the use of interagency acquisitions to maximize competition, deliver best value to executive agencies, and minimize waste, fraud, and abuse.

''(B) Categories of contracting inappropriate for interagency acquisition.

''(C) Requirements for training acquisition workforce personnel in the proper use of interagency acquisitions.

''(b) REGULATIONS REQUIRED.—

''(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Oct. 14, 2008], the Federal Acquisition Regulation shall be revised to require that all interagency acquisitions—

''(A) include a written agreement between the requesting agency and the servicing agency assigning responsibility for the administration and management of the contract;

''(B) include a determination that an interagency acquisition is the best procurement alternative; and

''(C) include sufficient documentation to ensure an adequate audit.

''(2) MULTI-AGENCY CONTRACTS.—Not later than one year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to require any multi-agency contract entered into by an executive agency after the effective date of such regulations to be supported by a business case analysis detailing the administration of such contract, including an analysis of all direct and indirect costs to the Federal Government of awarding and administering such contract and the impact such contract will have on the ability of the Federal Government to leverage its purchasing power.

''(c) AGENCY REPORTING REQUIREMENT.—The senior procurement executive for each executive agency shall, as directed by the Director of the Office of Management and Budget, submit to the Director annual reports on the actions taken by the executive agency pursuant to the guidelines issued under subsection (a).

''(d) DEFINITIONS.—In this section:

''(1) The term 'executive agency' has the meaning given such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)), except that, in the case of a military department, it means the Department of Defense.

''(2) The term 'head of executive agency' means the head of an executive agency except that, in the case of a military department, the term means the Secretary of Defense.

''(3) The term 'interagency acquisition' means a procedure by which an executive agency needing supplies or services (the requesting agency) obtains them from another executive agency (the servicing agency). The term includes acquisitions under section 1535 of title 31, United States Code (commonly referred to as the 'Economy Act'), Federal Supply Schedules above $500,000, and Governmentwide acquisition contracts.

''(4) The term 'multi-agency contract' means a task or delivery order contract established for use by more than one executive agency to obtain supplies and services, consistent with section 1535 of title 31, United States Code (commonly referred to as the 'Economy Act').''

REVIEW AND ENHANCEMENT OF EXISTING AUTHORITIES FOR USING AIR FORCE AND AIR NATIONAL GUARD MODULAR AIRBORNE FIRE-FIGHTING SYSTEMS AND OTHER DEPARTMENT OF DEFENSE ASSETS TO FIGHT WILDFIRES

Pub. L. 108–136, div. A, title X, § 1058, Nov. 24, 2003, 117 Stat. 1619, provided that:

''(a) REVIEW REQUIRED.—The Director of the Office of Management and Budget shall conduct a review of existing authorities regarding the use of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems units and other Department of Defense assets to fight wildfires to ensure that, in accordance with applicable legal requirements, such assets are available in the most expeditious manner to fight wildfires on Federal lands or non-Federal lands at the request of a Federal agency or State government. In conducting the review, the Director shall specifically consider—

''(1) any adverse impact caused by the restrictions contained in section 1535(a)(4) of title 31, United States Code, or caused by the interpretation of such restrictions, on the ability of the Forest Service and other Federal agencies to procure such firefighting services; and

''(2) whether the authorities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including section 403(c) of such Act (42 U.S.C. 5170b), are being properly utilized to facilitate an expeditious Department of Defense response to State requests under, and consistent with, such Act for firefighting services.

''(b) DETERMINATION REQUIRED.—On the basis of the review, the Director shall make a determination regarding whether existing authorities are being used in a manner consistent with using the available capabilities of Department of Defense assets to fight wildfires in the most expeditious and efficacious way to minimize the risk to public safety.

''(c) EXPEDITED ECONOMY ACT REVIEW PROCESS.—If the Director determines under subsection (b) that existing authorities are adequate for the deployment of Department of Defense assets to fight wildfires, the Director shall develop and implement, subject to subsection (f), such modifications to the process for conducting the cost comparison required by section 1535(a)(4) of title 31, United States Code, as the Director considers appropriate to further expedite the procurement of such firefighting services.

''(d) DEVELOPMENT AND IMPLEMENTATION OF REVISED POLICIES.—If the Director determines under subsection (b) that the existing authorities or their use is inadequate or can be improved, the Director shall develop and implement, subject to subsection (f), such regulations, policies, and interagency procedures as may be necessary to improve the ability of the Department of Defense to respond to a request by a Federal agency or State government to assist in fighting wildfires on Federal lands or non-Federal lands under section 1535(a) of title 31, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or both.

''(e) REPORTING REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act [Nov. 24, 2003], the Director shall transmit to Congress a report—

''(1) containing the results of the review conducted under subsection (a) and the determination made under subsection (b); and

''(2) based on such determination, describing the modifications proposed to be made to existing authorities under subsection (c) or (d), including whether there is a need for legislative changes to further improve the procedures for using Department of Defense assets to fight wildfires.

''(f) DELAYED IMPLEMENTATION.—The modifications described in the report prepared under subsection (e) to be made to existing authorities under subsection (c) or (d) shall not take effect until the end of the 30-day period beginning on the date on which the report is transmitted to Congress.''

PLACEMENT OF ORDERS BY CHIEF ADMINISTRATIVE OFFICER OF THE HOUSE OF REPRESENTATIVES

Pub. L. 107–206, title I, § 904, Aug. 2, 2002, 116 Stat. 876, provided that: ''Nothing in section 1535 of title 31, U.S.C. (commonly referred to as the 'Economy Act'), or any other provision of such title may be construed to prevent or restrict the Chief Administrative Officer of the House of Representatives from placing orders under such section during any fiscal year in the same manner

and to the same extent as the head of any other major organizational unit with an agency may place orders under such section during a fiscal year.''

ECONOMY ACT PURCHASES

Pub. L. 103–355, title I, § 1074, Oct. 13, 1994, 108 Stat. 3271, provided that the Federal Acquisition Regulation was to be revised to include regulations governing the exercise of authority under this section for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies, and further provided for content of regulations, establishment of system to monitor procurements under regulations, and that section would cease to be effective one year after date on which final regulations took effect. Final regulations were published in the Federal Register Sept. 26, 1995, effective Oct. 1, 1995. See 60 F.R. 49720.

DEPARTMENT OF DEFENSE PURCHASES THROUGH OTHER AGENCIES

Pub. L. 105–261, div. A, title VIII, § 814, Oct. 17, 1998, 112 Stat. 2087, which directed Secretary of Defense, not later than 90 days after Oct. 17, 1998, to revise regulations issued pursuant to section 844 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160, see below) to cover certain purchases greater than the micro-purchase threshold and to provide for a streamlined method of compliance for any such purchase that is not greater than the simplified acquisition threshold, ceased to be effective 1 year after date on which final regulations took effect. Final regulations were published in the Federal Register Mar. 25, 1999, effective on that date. See 64 F.R. 14399.

Pub. L. 103–160, div. A, title VIII, § 844, Nov. 30, 1993, 107 Stat. 1720, directed Secretary of Defense, not later than six months after Nov. 30, 1993, to prescribe regulations governing exercise by Department of Defense of authority under this section to purchase goods and services under contracts entered into or administered by another agency, and provided for content of regulations, establishment of system to monitor procurements under regulations, and that section would cease to be effective one year after date on which final regulations took effect. Final regulations were published in the Federal Register Sept. 26, 1995, effective Oct. 1, 1995. See 60 F.R. 49720.

ACQUISITION OF GOODS, SERVICES, OR SPACE BY SECRETARY OF SENATE AND SERGEANT AT ARMS AND DOORKEEPER OF SENATE

Pub. L. 101–163, title I, § 8, Nov. 21, 1989, 103 Stat. 1046, provided that:

''(1) The Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to acquire goods, services, or space from government agencies and units by agreement under the provisions of the Economy Act, 31 U.S.C. 1535, and to make advance payments in conjunction therewith, if required by the providing agency or establishment.

''(2) No advance payment may be made under paragraph (1) unless specifically provided for in the agreement. No agreement providing for advance payment may be entered into unless it contains a provision requiring the refund of any unobligated balance of the advance.

''(3) No agreement may be entered into under paragraph (1) without the approval of the Senate Committee on Rules and Administration and the Senate Committee on Appropriations.''

## § 1536. Crediting payments from purchases between executive agencies

(a) An advance payment made on an order under section 1535 of this title is credited to a special working fund that the Secretary of the Treasury considers necessary to be established. Except as provided in this section, any other payment is credited to the appropriation or fund against which charges were made to fill the order.

(b) An amount paid under section 1535 of this title may be expended in providing goods or services or for a purpose specified for the appropriation or fund credited. Where goods are provided from stocks on hand, the amount received in payment is credited so as to be available to replace the goods unless—

(1) another law authorizes the amount to be credited to some other appropriation or fund; or

(2) the head of the executive agency filling the order decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

(c) This section does not affect other laws about working funds.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 934.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1536(a) ..... | 31:686(b)(1st, 2d sentences). | May 21, 1920, ch. 194, § 7(b), 41 Stat. 613; restated June 30, 1932, ch. 314, § 601, 47 Stat. 418. |
| 1536(b) ..... | 31:686(b)(3d, last sentences). | |
| 1536(c) ..... | 31:686b(c)(related to 31:686). | June 30, 1932, ch. 314, § 602(c)(related to § 601), 47 Stat. 418. |

In subsection (b), the words ''providing goods or services'' are substituted for ''furnishing the materials, supplies, or equipment, or in performing the work or services'' to eliminate unnecessary words.

## § 1537. Services between the United States Government and the District of Columbia government

(a) To prevent duplication and to promote efficiency and economy, an officer or employee of—

(1) the United States Government may provide services to the District of Columbia government; and

(2) the District of Columbia government may provide services to the United States Government.

(b)(1) Services under this section shall be provided under an agreement—

(A) negotiated by officers and employees of the 2 governments; and

(B) approved by the Director of the Office of Management and Budget and the Mayor of the District of Columbia.

(2) Each agreement shall provide that the cost of providing the services shall be borne in the way provided in subsection (c) of this section by the government to which the services are provided at rates or charges based on the actual cost of providing the services.

(3) To carry out an agreement made under this subsection, the agreement may provide for the delegation of duties and powers of officers and employees of—

(A) the District of Columbia government to officers and employees of the United States Government; and

(B) the United States Government to officers and employees of the District of Columbia government.

(c) In providing services under an agreement made under subsection (b) of this section—

(1) costs incurred by the United States Government may be paid from appropriations available to the District of Columbia government officer or employee to whom the services were provided; and

(2) costs incurred by the District of Columbia government may be paid from amounts available to the United States Government officer or employee to whom the services were provided.

(d) When requested by the Director of the United States Secret Service, the Chief of the Metropolitan Police shall assist the Secret Service and the Secret Service Uniformed Division on a non-reimbursable basis in carrying out their protective duties under sections 3056 and 3056A of title 18.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 934; Pub. L. 109–177, title VI, § 605(d)(1), Mar. 9, 2006, 120 Stat. 255.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1537(a) ..... | 31:685a(a)(1st sentence). | Dec. 24, 1973, Pub. L. 93–198, § 731, 87 Stat. 822. |
| 1537(b) ..... | 31:685a(a)(2d, last sentences), (b). | |
| 1537(c) ..... | 31:685a(c)(less last sentence words after last comma). | |
| 1537(d) ..... | 31:685a(c)(last sentence words after last comma). | |

In the section, the words ''District of Columbia'' are substituted for ''District'' for clarity and consistency.

In subsection (a), the word ''duplication'' is substituted for ''duplication of effort'' to eliminate unnecessary words. The words ''officer or employee of the United States Government'' are substituted for ''any Federal officer or agency'', and the words ''officer or employee of the District of Columbia government'' are substituted for ''any District officer or agency'', for consistency.

In subsection (b)(1), before clause (A), the words ''Except where the terms and conditions governing the furnishing of such services are prescribed by other provisions of law'' are omitted as surplus. In clause (A), the words ''officers and employees of the 2 governments'' are substituted for ''Federal and District authorities'' for consistency. In clause (B), the words ''of the District of Columbia'' are added for clarity.

In subsection (b)(3), before clause (A), the words ''duties and powers'' are substituted for ''functions'' for consistency in the revised title and with other titles of the United States Code. The text of 31:685a(b)(last sentence) is omitted as surplus.

In subsection (c)(1), the words ''United States Government'' are substituted for ''each Federal officer and agency'' for clarity.

In subsection (c)(2), the words ''District of Columbia government'' are substituted for ''each District officer and agency'' for consistency.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–177 substituted ''and the Secret Service Uniformed Division'' for ''and the Executive Protective Service'' and ''their protective duties under sections 3056 and 3056A of title 18'' for ''their protective duties under section 302 of title 3 and section 3056 of title 18''.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

## SUBCHAPTER IV—CLOSING ACCOUNTS

### § 1551. Definitions; applicability of subchapter

(a) In this subchapter—

(1) An obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

(2) An unobligated balance is the difference between the obligated balance and the total unexpended balance.

(3) A fixed appropriation account is an appropriation account available for obligation for a definite period.

(b) The limitations on the availability for expenditure prescribed in this subchapter apply to all appropriations unless specifically otherwise authorized by a law that specifically—

(1) identifies the appropriate account for which the availability for expenditure is to be extended;

(2) provides that such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to that account; and

(3) extends the availability for expenditure of the obligated balances.

(c) This subchapter does not apply to—

(1) appropriations for the District of Columbia government; or

(2) appropriations to be disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 935; Pub. L. 101–510, div. A, title XIV, § 1405(a)(1), Nov. 5, 1990, 104 Stat. 1676; Pub. L. 102–484, div. A, title X, § 1054(e)(2), Oct. 23, 1992, 106 Stat. 2503; Pub. L. 104–186, title II, § 219(b)(1), Aug. 20, 1996, 110 Stat. 1748.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1551(a) ..... | 31:701(c)(1st sentence). | July 25, 1956, ch. 727, § 1(c)(1st sentence), 70 Stat. 648; July 8, 1959, Pub. L. 86–79, § 210(b), 73 Stat. 167. |
| 1551(b) ..... | 31:707. | July 25, 1956, ch. 727, § 8, 70 Stat. 650. |

In subsection (b)(1), the words ''District of Columbia government'' are substituted for ''District of Columbia'' for consistency.

AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104–186 substituted ''Chief Administrative Officer'' for ''Clerk''.

1992—Pub. L. 102–484 substituted ''Definitions; applicability of subchapter'' for ''Definitions and applications'' as section catchline.

1990—Pub. L. 101–510 amended text generally, reenacting former subsec. (a)(1) and (2) with a change in capitalization, adding subsecs. (a)(3) and (b), and restating former subsec. (b) as (c).

EFFECTIVE DATE OF 1990 AMENDMENT; TRANSITIONAL PROVISIONS

Section 1405(b) of Pub. L. 101–510, as amended by Pub. L. 102–484, div. A, title X, §1004, Oct. 23, 1992, 106 Stat. 2481, provided that:

''(1) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) [amending this section and sections 1552 to 1557 of this title] shall apply to any appropriation account the obligated balance of which, on the date of the enactment of this Act [Nov. 5, 1990], has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this section.

''(2) RESTORATION OF CERTAIN UNOBLIGATED AMOUNTS.—The balance of any unobligated amount withdrawn under section 1552(a)(2) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act, from an account the obligated balance of which has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this section, is hereby restored to that account.

''(3) CANCELLATION OF UNOBLIGATED BALANCES.—All balances of unobligated funds withdrawn from an account under subsection 1552(a)(2) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act (other than funds restored under paragraph (2)) are canceled, effective at the end of the 30-day period beginning on the date of the enactment of this Act.

''(4) CANCELLATION OF OBLIGATED BALANCES.—On the third September 30th after the date of the enactment of this Act, all obligated balances transferred under subsection 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act, shall be canceled.

''(5) OBLIGATION OF EXISTING BALANCES.—After the date of the enactment of this Act, an obligation of any part of a balance transferred before the date of the enactment of this Act under section 1552(a)(1) of title 31, United States Code, shall be subject to section 1553(c) of such title, as amended by subsection (a).

''(6) CANCELLATION OF OLDEST OBLIGATED BALANCES.—(A) At the end of the 30-day period beginning on the date on which the President submits to Congress the budget for fiscal year 1992, any amount in an account established under paragraph (1) of section 1552 of title 31, United States Code, as in effect before the date of the enactment of this Act, that has been in that account as of that date for a period in excess of five years shall be deobligated and shall be withdrawn in the manner provided in paragraph (2) of that section. Amounts so deobligated and withdrawn may not be restored.

''(B) Subparagraph (A) shall not apply so as to require the deobligation of amounts—

''(i) for which there is documentary evidence that payment will be required within 180 days of the date of the enactment of this Act; or

''(ii) that are determined to be necessary for severance payments for foreign national employees.

''(7) OBLIGATIONS AND ADJUSTMENT OF OBLIGATIONS.—(A) After cancellation of unobligated balances under paragraph (3) or cancellation of obligated balances under paragraph (4) or paragraph (6) and subject to the provisions of subparagraph (B), obligations and adjustments to obligations that would have been chargeable to those balances before such cancellations and that are not otherwise chargeable to current appropriations of the agency concerned may be charged to current appropriations of that agency available for the same purpose. Any charge made pursuant to this subsection shall be limited to the unobligated expired balances of the original appropriation available for the same purpose.

''(B) Any charge made pursuant to subparagraph (A) shall be subject to the maximum amount chargeable under subsection (b) of section 1553 of title 31, United States Code, as amended by this section, and shall be included in the calculation of the total amount charged to any account under that section.

''(8) OBLIGATIONS AND ADJUSTMENTS OF OBLIGATIONS FOR EXPIRED BUT NOT CLOSED ACCOUNTS.—(A) Subject to subparagraphs (B), (C), and (D), in the case of an appropriation account for a fiscal year before fiscal year 1992 for which the period of availability for obligation has expired but which has not been closed under the provisions of section 1552(a) of title 31, United States Code, or paragraph (4) of this section, an obligation and an adjustment of an obligation may be charged to any current appropriation account of the Department of Defense that is available for the same purpose as the expired account if—

''(i) the obligation would have been properly chargeable (except as to amount) to the expired account before the end of the period of availability of that account; and

''(ii) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense.

''(B) The total amount charged to a current appropriation account under subparagraph (A) may not exceed an amount equal to the lesser of—

''(i) one percent of the total amount of the appropriations for that account; or

''(ii) one percent of the total amount of the appropriations for the expired account.

''(C) No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are notified of the intent to make such a charge and a period of 30 days elapses after the notification is submitted.

''(D) CERTIFICATIONS.—No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Secretary of Defense (except as otherwise provided in subparagraph (E)) certifies to Congress the following:

''(i) That the limitations on expending and obligating amounts established pursuant to section 1341 of title 31, United States Code, are being observed within the Department of Defense.

''(ii) That reports on any violations of such section 1341, whether intentional or inadvertent, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by section 1351 of title 31, United States Code.

''(E) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certifications referred to in subparagraph (D) within 60 days after the date of the enactment of this subparagraph [Oct. 23, 1992], the Secretary shall submit to the Congress a report stating that the Secretary is unable to make such certifications and setting forth the actions that the Secretary will take in order to enable the Secretary to make such certifications after the end of that period.''

## § 1552. Procedure for appropriation accounts available for definite periods

(a) On September 30th of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

(b) Collections authorized or required to be credited to an appropriation account, but not received before closing of the account under subsection (a) or under section 1555 of this title shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 935; Pub. L. 101–510, div. A, title XIV, §1405(a)(1), Nov. 5, 1990, 104 Stat. 1676.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1552(a) ..... | 31:701(a)(1). | July 25, 1956, ch. 727, §1(a)(1), 70 Stat. 647; restated July 12, 1974, Pub. L. 93–344, §503(a), 88 Stat. 321. |
| | 31:701(a)(2). | July 25, 1956, ch. 727, §1(a)(2), 70 Stat. 648; June 29, 1960, Pub. L. 86–533, §1(25), 74 Stat. 249. |
| | 31:701(b). | July 25, 1956, ch. 727, §1(b), 70 Stat. 648; restated July 12, 1974, Pub. L. 93–344, §503(b), 88 Stat. 322; Apr. 21, 1976, Pub. L. 94–273, §45, 90 Stat. 382. |
| 1552(b) ..... | 31:701(c)(last sentence). | July 25, 1956, ch. 727, §§1(c)(last sentence), (d), 5, 70 Stat. 648, 649. |
| 1552(c) ..... | 31:701(d). | |
| 1552(d) ..... | 31:705. | |

In subsection (a), the text of 31:701(b)(1)(A) and (2)(A) and the words ''for the period commencing on July 1, 1976, and ending on September 30, 1976, and for any fiscal year commencing on or after October 1, 1976'' are omitted as executed.

In subsection (a)(1), the words ''period of availability ends'' are substituted for ''that period or the fiscal year or years, as the case may be, for which the appropriation is available for obligation'' to eliminate unnecessary words.

In subsection (a)(2), the words ''reverts to the Treasury'' are substituted for ''if the appropriation was derived in whole or in part from the general fund, shall revert to such fund'' to eliminate unnecessary words.

In subsection (b), the words ''not received before'' are substituted for ''not received until after'' for clarity. The words ''unless otherwise authorized by law'' are omitted as surplus. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency.

In subsection (c), the text of 31:701(d)(last sentence) is omitted as executed.

In subsection (d), before clause (1), the word ''heading'' is substituted for ''heads'' for clarity and consistency.

AMENDMENTS

1990—Pub. L. 101–510 amended text generally, revising and restating former subsecs. (a) to (d) as subsecs. (a) and (b).

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 subsec. (a)(1) of this section, 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.

AUDIT OF OBLIGATED BALANCES OF DEPARTMENT OF DEFENSE

Section 1406 of Pub. L. 101–510 provided that:

''(a) AUDIT REQUIREMENT.—The Secretary of Defense shall provide for an audit of each account of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act [Nov. 5, 1990]. The audit shall, with respect to each such account, identify—

''(1) the balance in the account;

''(2) the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts required for valid obligations (as supported by documentary evidence as required by section 1501 of title 31) and the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts for obligations that are considered no longer valid;

''(3) the sources of amounts in the account, shown by fiscal year and by amount for each fiscal year; and

''(4) such other matters as the Secretary considers appropriate.

''(b) DEOBLIGATION OF OBLIGATIONS NO LONGER VALID.—Any obligated amounts in accounts of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, that are determined pursuant to the audit under subsection (a) to represent amounts for obligations that are no longer valid shall be deobligated and canceled.

''(c) REPORT ON AUDIT.—Not later than December 31, 1991, the Secretary of Defense shall submit to Congress a report containing the results of the audit conducted pursuant to subsection (a). The report shall set forth—

''(1) the information required to be identified pursuant to subsection (a); and

''(2) for each appropriation account (A) the average length of time funds have been obligated, (B) the average size of the obligation, and (iii)[(C)] the object classification of the obligations, all shown for total obligations and separately for valid obligations and obligations that are no longer valid.''

## § 1553. Availability of appropriation accounts to pay obligations

(a) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

(2) The total amount of charges to an account under paragraph (1) may not exceed an amount equal to 1 percent of the total appropriations for that account.

(c)(1) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount of obligations from that appropriation during a fiscal year for contract changes for that program, project, or activity to exceed $4,000,000, the obligation may only be made if the obligation is approved by the head of the agency (or an officer of the agency within the Office of the head of the agency to whom the head of the agency has delegated the authority to approve such an obligation).

(2) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount obligated from that appropriation during a fiscal year for that program, project, or activity to exceed $25,000,000, the obligation may not be made until—

(A) the head of the agency submits to the appropriate authorizing committees of Congress and the Committees on Appropriations of the

Senate and the House of Representatives a notice in writing of the intent to obligate such funds, together with a description of the legal basis for the proposed obligation and the policy reasons for the proposed obligation; and

(B) a period of 30 days has elapsed after the notice is submitted.

(3) In this subsection, the term ''contract change'' means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under an escalation clause.

(d)(1) Obligations under this section may be paid without prior action of the Comptroller General.

(2) This subchapter does not—

(A) relieve the Comptroller General of the duty to make decisions requested under law; or

(B) affect the authority of the Comptroller General to settle claims and accounts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 936; Pub. L. 101–510, div. A, title XIV, § 1405(a)(1), Nov. 5, 1990, 104 Stat. 1676.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1553(a) ..... | 31:702(1st sentence). | July 25, 1956, ch. 727, § 2, 70 Stat. 648. |
| 1553(b) ..... | 31:702(last sentence). | |

In subsection (a), the word ''separately'' is substituted for ''as one fund'' for clarity. The words ''remains available until expended'' are substituted for ''shall be available without fiscal year limitation'' for consistency in the revised title.

In subsection (b), the words ''Comptroller General'' are substituted for ''Comptroller General of the United States'' and ''General Accounting Office'' for consistency. The words ''affect the authority'' are substituted for ''abridge the existing authority'' to eliminate unnecessary words. The words ''settle claims and accounts'' are substituted for ''settle and adjust claims, demands, and accounts'' for consistency with chapter 35 of the revised title.

AMENDMENTS

1990—Pub. L. 101–510 amended text generally. Prior to amendment, text read as follows:

''(a) Each appropriation account established under section 1552 of this title is accounted for separately and remains available until expended to pay obligations chargeable against any appropriation from which the account is derived.

''(b) Under regulations prescribed by the Comptroller General, obligations under subsection (a) of this section may be paid without prior action of the Comptroller General. However, this subchapter does not—

''(1) relieve the Comptroller General of the duty to make decisions requested under law; or

''(2) affect the authority of the Comptroller General to settle claims and accounts.''

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.

## § 1554. Audit, control, and reporting

(a) Any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability for obligation of that account.

(b)(1) After the close of each fiscal year, the head of each agency shall submit to the President and the Secretary of the Treasury a report regarding the unliquidated obligations, unobligated balances, canceled balances, and adjustments made to appropriation accounts of that agency during the completed fiscal year. The report shall be submitted no later than 15 days after the date on which the President's budget for the next fiscal year is submitted to Congress under section 1105 of this title.

(2) Each report required by this subsection shall—

(A) provide a description, with reference to the fiscal year of appropriations, of the amount in each account, its source, and an itemization of the appropriations accounts;

(B) describe all current and expired appropriations accounts;

(C) describe any payments made under section 1553 of this title;

(D) describe any adjustment of obligations during that fiscal year pursuant to section 1553 of this title;

(E) contain a certification by the head of the agency that the obligated balances in each appropriation account of the agency reflect proper existing obligations and that expenditures from the account since the preceding review were supported by a proper obligation of funds and otherwise were proper;

(F) describe all balances canceled under sections 1552 and 1555 of this title.

(3) The head of each Federal agency shall provide a copy of each such report to the Speaker of the House of Representatives and the Committee on Appropriations, the Committee on Governmental Affairs, and other appropriate oversight and authorizing committees of the Senate.

(c) The head of each agency shall establish internal controls to assure that an adequate review of obligated balances is performed to support the certification required by section 1108(c) of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 936; Pub. L. 101–510, div. A, title XIV, § 1405(a)(1), Nov. 5, 1990, 104 Stat. 1677; Pub. L. 102–190, div. A, title X, § 1004(b), Dec. 5, 1991, 105 Stat. 1457.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1554(a) ..... | 31:703(a)(1st, 2d sentences, last sentence proviso). | July 25, 1956, ch. 727, § 3(a), 70 Stat. 649; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085; Apr. 21, 1976, Pub. L. 94–273, § 8(1), 90 Stat. 378. |
| 1554(b) ..... | 31:703(a)(3d sentence, last sentence less proviso). | |

In subsection (a), the words ''head of the agency'' are substituted for ''agency concerned'' 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) designated 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), the words ''withdrawal or restoration'' are substituted for ''transactions'' the first time it appears.

AMENDMENTS

1991—Subsecs. (c), (d). Pub. L. 102–190 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows:

''(1) The Director of the Congressional Budget Office shall estimate each year the effect on the Federal deficit of payments and adjustments made with respect to sections 1552 and 1553 of this title. Such estimate shall be made separately for accounts of each agency.

''(2) The Director shall include in the annual report of the Director to the Committees on the Budget of the Senate and House of Representatives under paragraph (1) of section 202(f) of the Congressional Budget Act of 1974 a statement of the estimates made pursuant to paragraph (1) of this subsection during the preceding year (including any revisions to estimates contained in earlier reports under such paragraph). The Director shall include in any report under paragraph (2) of that section any revisions to such estimates made since the most recent report under paragraph (1) of such section.''

1990—Pub. L. 101–510 substituted ''Audit, control, and reporting'' for ''Review of appropriation accounts'' in section catchline and amended text generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which required the head of each agency to annually review each appropriation account established by the agency under section 1552 of this title.

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.

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.

REPORTING REQUIREMENT REGARDING EFFECT OF CERTAIN PAYMENTS AND ADJUSTMENTS ON FEDERAL DEFICIT

Section 1004(a) of Pub. L. 102–190 provided that: ''At the same time that the President submits to Congress the budget for each of fiscal years 1993, 1994, 1995, and 1996 under section 1105 of title 31, United States Code, the Director of the Office of Management and Budget shall submit to Congress a report regarding the effect on the Federal deficit of payments and adjustments made with respect to sections 1552 and 1553 of such title for the fiscal year in which such budget is submitted, the fiscal year preceding that fiscal year, and the fiscal year covered by that budget. The report shall include separate estimates for the accounts of each agency.''

## § 1555. Closing of appropriation accounts available for indefinite periods

An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if—

(1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and

(2) no disbursement has been made against the appropriation for two consecutive fiscal years.

(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. 1678.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1555(a) ..... | 31:706(less proviso). | July 25, 1956, ch. 727, § 6, 70 Stat. 649. |
| 1555(b) ..... | 31:706(proviso). | |

In subsection (a), the words ''indefinite period'' are substituted for ''not limited to a definite period of time'' for consistency in the revised title. The words ''consecutive fiscal years'' are substituted for ''full consecutive fiscal years'' to eliminate an unnecessary word.

In subsection (b), the words ''or were heretofore withdrawn from the appropriation account by administrative action'' are omitted as executed.

AMENDMENTS

1990—Pub. L. 101–510 substituted ''Closing of appropriation accounts available'' for ''Withdrawal of unobligated balances of appropriations'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) An unobligated balance of an appropriation for an indefinite period shall be withdrawn in the way provided in section 1552(a)(2) of this title when the head of the agency concerned decides that the purposes for which the appropriation was made have been carried out or when no disbursement is made against the appropriation for 2 consecutive fiscal years.

''(b) An amount of an appropriation withdrawn under this section may be restored to the applicable appropriation account to pay obligations and to settle accounts.''

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.

## § 1556. Comptroller General: reports on appropriation accounts

(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 fixed appropriation accounts for which the period of availability for obligation has ended.

(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. 1678.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 1556(a) ..... | 31:703(b)(1st sentence words before 4th comma). | July 25, 1956, ch. 727, § 3(b), 70 Stat. 649; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, § 102(a), 84 Stat. 2085. |

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.
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3110. Sale of obligations of governments of foreign countries.
3111. New issue used to buy, redeem, or refund outstanding obligations.
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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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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.<br>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.<br>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).<br>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.
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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


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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.
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SUBCHAPTER III—UNITED STATES MINT


5131. Organization.
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5135. Numismatic Public Enterprise Fund.[1]
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SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING


5141. Operation of the Bureau.
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5151. Conversion of currency of foreign countries.
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5153. Counterfeit currency.
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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,".

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5101 ..... | 31:371. | R.S. § 3563. |

The word ''money'' is substituted for ''money of account'' to eliminate unnecessary words. As far as can be determined, the phrase ''money of account'' has not been interpreted by any court or Government agency. The phrase was used by Alexander Hamilton in his ''Report on the Establishment of the Mint'' (1791). In that Report, Hamilton propounded 6 questions, including:

> 1st. What ought to be the nature of the money unit of the United States?

Thereafter, Hamilton uses the phrases ''money unit of the United States'' and ''money of account'' interchangeably and in the sense that the phrases are used to denote the monetary system for keeping financial accounts. In short, the phrases simply indicate that financial accounts are to be based on a decimal money system:

> . . ., and it is certain that nothing can be more simple and convenient than the decimal subdivisions. There is every reason to expect that the method will speedily grow into general use, when it shall be seconded by corresponding coins. On this plan the unit in the money of account will continue to be, as established by that resolution [of August 8, 1786], a dollar, and its multiples, dimes, cents, and mills, or tenths, hundreths, [sic] and thousands.

Thus, the phrase ''money of account'' did not mean, by itself, that dollars or fractions of dollars must be equal to something having intrinsic or ''substantive'' value. This concept is supported by earlier writings of Thomas Jefferson in his ''Notes on the Establishment of a Money Unit, and of a Coinage for the United States'' (1784), and the 1782 report to the President of the Continental Congress on the coinage of the United States by the Superintendent of Finances, Robert Morris, which was apparently prepared by the Assistant Superintendent, Gouverneur Morris. See Paul L. Ford, *The Writings of Thomas Jefferson*, vol. III (G.P. Putnam's Sons, 1894) pp. 446–457; William G. Sumner, *The Financier and the Finances of the American Revolution*, vol. II (Burt Franklin, 1891, reprinted 1970) pp. 36–47; and George T. Curtis, *History of the Constitution*, vol. I (Harper and Brothers, 1859) p. 443, n2. The words ''or units'' and ''and all accounts in the public offices and all proceedings in the courts shall be kept and had in conformity to this regulation'' are omitted as surplus.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–456, § 1, Dec. 23, 2008, 122 Stat. 5038, provided that: ''This Act [amending section 5112 of this title and enacting provisions set out as a note under section 5112 of this title] may be cited as the 'America's Beautiful National Parks Quarter Dollar Coin Act of 2008'.''

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–82, § 1, Sept. 20, 2007, 121 Stat. 777, provided that: ''This Act [amending section 5112 of this title and enacting provisions set out as a note under section 5112 of this title] may be cited as the 'Native American $1 Coin Act'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–145, § 1, Dec. 22, 2005, 119 Stat. 2664, provided that: ''This Act [amending section 5112 of this title and enacting provisions set out as notes under section 5112 of this title] may be cited as the 'Presidential $1 Coin Act of 2005'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–15, § 1, Apr. 23, 2003, 117 Stat. 615, provided that: ''This Act [amending sections 5112, 5134, and 5135 of this title and enacting provisions set out as notes under sections 5112, 5134, and 5135 of this title] may be cited as the 'American 5-Cent Coin Design Continuity Act of 2003'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–201, § 1, July 23, 2002, 116 Stat. 736, provided that: ''This Act [amending section 5116 of this title and enacting provisions set out as notes under sections 5112 and 5116 of this title] may be cited as the 'Support of American Eagle Silver Bullion Program Act'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–445, § 1, Nov. 6, 2000, 114 Stat. 1931, provided that: ''This Act [amending sections 5112, 5132 and 5134 of this title] may be cited as the 'United States Mint Numismatic Coin Clarification Act of 2000'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–124, § 1, Dec. 1, 1997, 111 Stat. 2534, provided that: ''This Act [amending section 5112 of this title and enacting provisions set out as notes under this section and section 5112 of this title] may be cited as the '50 States Commemorative Coin Program Act'.''

Pub. L. 105–124, § 4(a), Dec. 1, 1997, 111 Stat. 2536, provided that: ''This section [amending section 5112 of this title and enacting provisions set out as notes under section 5112 of this title] may be cited as the 'United States $1 Coin Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–329, § 1(a), Oct. 20, 1996, 110 Stat. 4005, provided that: ''This Act [amending sections 5131 and 5135 of this title and enacting provisions set out as notes under this section, sections 5112 and 5135 of this title, and section 431 of Title 16, Conservation] may be cited as the 'United States Commemorative Coin Act of 1996'.''

Pub. L. 104–329, title III, § 301, Oct. 20, 1996, 110 Stat. 4012, provided that: ''This title [amending sections 5131 and 5135 of this title and enacting provisions set out as notes under sections 5112 and 5135 of this title] may be cited as the '50 States Commemorative Coin Program Act'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–390, title II, § 201, Oct. 6, 1992, 106 Stat. 1624, provided that: ''This title [enacting sections 5134 and 5135 of this title, amending sections 304, 5111, 5112, 5119, 5131, and 5132 of this title and section 709 of Title 18, Crimes and Criminal Procedure, enacting provisions set out as notes under sections 5132 and 5134 of this title, amending provisions set out as notes under section 5112 of this title, and repealing provisions set out as a note under section 5112 of this title] may be cited as the 'United States Mint Reauthorization and Reform Act of 1992'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–585, § 1, Nov. 15, 1990, 104 Stat. 2874, provided that: ''This Act [amending section 5132 of this title] may be cited as the 'Silver Coin Proof Sets Act'.''

## § 5102. Standard weight

The standard troy pound of the National Institute of Standards and Technology of the Department of Commerce shall be the standard used to ensure that the weight of United States coins conforms to specifications in section 5112 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 980; Pub. L. 100–418, title V, § 5115(c), Aug. 23, 1988, 102 Stat. 1433.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5102 ..... | 31:364. | R.S. § 3548; restated Mar. 4, 1911, ch. 268, § 1, 36 Stat. 1354. |

The words ''National Bureau of Standards of the Department of Commerce'' are substituted for ''Bureau of Standards of the United States'' because of 15:1511. The words ''troy pound of the mint of the United States, conformably to which the coinage thereof shall be regulated'' are omitted as unnecessary because of the restatement. The word ''ensure'' is substituted for ''securing'' as being more precise. The words ''specifications in section 5112 of this title'' are substituted for ''the provisions of the laws relating to coinage'' because of the restatement.

AMENDMENTS

1988—Pub. L. 100–418 substituted ''National Institute of Standards and Technology'' for ''National Bureau of Standards''.

## § 5103. Legal tender

United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 980; Pub. L. 97–452, § 1(19), Jan. 12, 1983, 96 Stat. 2477.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5103 ..... | 31:392. | July 23, 1965, Pub. L. 89–81, § 102, 79 Stat. 255. |
| | 31:456. | R.S. § 3584. |

The words ''All . . . regardless of when coined or issued'' are omitted as unnecessary because of the restatement. The word ''debts'' is substituted for ''debts, public and private'' to eliminate unnecessary words. The words ''public charges, taxes, duties, and dues'' are omitted as included in ''debts''.

1983 ACT

This restores to 31:5103 the reference to public charges, taxes, and dues because they are not considered to be debts. See, *Hagar v. Reclamation District No. 108*, 111 U.S. 701, 706 (1884).

AMENDMENTS

1983—Pub. L. 97–452 inserted '', public charges, taxes, and dues'' after ''all debts''.

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.

# SUBCHAPTER II—GENERAL AUTHORITY

## § 5111. Minting and issuing coins, medals, and numismatic items

(a) The Secretary of the Treasury—

(1) shall mint and issue coins described in section 5112 of this title in amounts the Secretary decides are necessary to meet the needs of the United States;

(2) may prepare national medal dies and strike national and other medals if it does not interfere with regular minting operations but may not prepare private medal dies;

(3) may prepare and distribute numismatic items; and

(4) may mint coins for a foreign country if the minting does not interfere with regular minting operations, and shall prescribe a charge for minting the foreign coins equal to the cost of the minting (including labor, materials, and the use of machinery).

(b) The Department of the Treasury has a coinage metal fund and a coinage profit fund. The Secretary may use the coinage metal fund to buy metal to mint coins. The Secretary shall credit the coinage profit fund with the amount by which the nominal value of the coins minted from the metal exceeds the cost of the metal. The Secretary shall charge the coinage profit fund with waste incurred in minting coins and the cost of distributing the coins, including the cost of coin bags and pallets. The Secretary shall deposit in the Treasury as miscellaneous receipts excess amounts in the coinage profit fund.

(c) PROCUREMENTS RELATING TO COIN PRODUCTION.—

(1) IN GENERAL.—The Secretary may make contracts, on conditions the Secretary decides are appropriate and are in the public interest, to acquire articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) necessary to produce the coins referred to in this title.

(2) DOMESTIC CONTROL OF COINAGE.—(A) Subject to subparagraph (B), in order to protect the national security through domestic control of the coinage process, the Secretary shall acquire only such articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) for the production of coins as have been produced or manufactured in the United States unless the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, and publishes in the Federal Register a written finding stating the basis for the determination.

(B) Subparagraph (A) shall apply only in the case of a bid or offer from a supplier the principal place of business of which is in a foreign country which does not accord to United States companies the same competitive opportunities for procurements in connection with the production of coins as it accords to domestic companies.

(3) DETERMINATION.—

(A) IN GENERAL.—Any determination of the Secretary referred to in paragraph (2) shall not be reviewable in any administrative proceeding or court of the United States.

(B) OTHER RIGHTS UNAFFECTED.—This paragraph does not alter or annul any right of review that arises under any provision of any law or regulation of the United States other than paragraph (2).

(4) Nothing in paragraph (2) of this subsection in any way affects the procurement by the Secretary of gold and silver for the production of coins by the United States Mint.

(d)(1) The Secretary may prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States.

(2) A person knowingly violating an order or license issued or regulation prescribed under paragraph (1) of this subsection, shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

(3) Coins exported, melted, or treated in violation of an order or license issued or regulation prescribed, and metal resulting from the melting or treatment, shall be forfeited to the United States Government. The powers of the Secretary and the remedies available to enforce forfeitures are those provided in part II of subchapter C of chapter 75 of the Internal Revenue Code of 1954[1] (26 U.S.C. 7321 et seq.).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 980; Pub. L. 100–274, § 3, Mar. 31, 1988, 102 Stat. 49; Pub. L. 102–390, title II, § 222, Oct. 6, 1992, 106 Stat. 1629.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5111(a)(1) | 31:272. | R.S. § 3503. |
| | 31:275. | R.S. § 3509; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| | 31:322. | R.S. § 3516. |
| | 31:342. | June 4, 1897, ch. 2, § 1(1st par. under heading ''Recoinage, Reissue, and Transportation of Minor Coins''), 30 Stat. 27. |
| | 31:345. | R.S. § 3532; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| | 31:353. | R.S. § 3540; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| | 31:391(a). | July 23, 1965, Pub. L. 89–81, § 101(a), 79 Stat. 254; restated Dec. 31, 1970, Pub. L. 91–607, § 201, 84 Stat. 1768. |
| 5111(a)(2) | 31:368. | R.S. § 3551; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| 5111(a)(3) | 31:324h. | Oct. 18, 1973, Pub. L. 93–127, § 5, 87 Stat. 456. |
| 5111(a)(4) | 31:367. | Jan. 29, 1874, ch. 19, 18 Stat. 6. |
| 5111(b) ..... | 31:340. | R.S. § 3528; Apr. 24, 1906, ch. 1861, 34 Stat. 132; Dec. 2, 1918, ch. 1, 40 Stat. 1051; Aug. 14, 1937, ch. 631, 50 Stat. 647; June 21, 1941, ch. 213, 55 Stat. 255; June 30, 1954, ch. 427, 68 Stat. 336; July 9, 1956, ch. 535, § 1, 70 Stat. 518; restated July 23, 1965, Pub. L. 89–81, § 206(a), 79 Stat. 256. |
| 5111(c) ..... | 31:393(a). | July 23, 1965, Pub. L. 89–81, §§ 103(a), 105, 106, 79 Stat. 255. |
| 5111(d) ..... | 31:395, 396. | |

In subsection (a)(1), the words ''coins described in'' are substituted for ''coins of the denominations set forth in'' in 31:391(a) because of the restatement. The text of 31:253, 272, and 345(1st sentence) is omitted as superseded by the source provisions restated in section 321(c) of the revised title. The text of 31:275, 322, 342, 345(last sentence), and 353 is omitted as unnecessary because of the restatement.

In subsection (a)(2), the words ''Secretary of the Treasury'' are substituted for ''engraver'' and ''superintendent of coining department of the mint at Philadelphia'' because of the source provisions restated in section 321(c) of the revised title. The words ''under such regulations as the superintendent, with the approval of the Director of the Mint, may prescribe'' are omitted as unnecessary because of section 321(b) of the revised title. The words ''national medal dies'' are substituted for ''Dies of a national character'' for clarity. The words ''or the machinery or apparatus thereof be used for that purpose'' are omitted as unnecessary because of the restatement.

In subsection (a)(3), the words ''numismatic items'' are retained and used throughout the revised title to apply to medals, proof coins, uncirculated coins, numismatic accessories, and other numismatic items to eliminate unnecessary words and for consistency. The words ''In connection with the operations of the Bureau of the Mint'' are omitted as unnecessary because of the restatement. The text of 31:324h(last sentence) is omitted as unnecessary because of the source provisions restated in section 5132(a) of the revised title.

In subsection (a)(4), the words ''may mint'' are substituted for ''It shall be lawful for coinage to be executed'' in 31:367, and the words ''regular minting operations'' are substituted for ''required coinage of the United States'', for consistency in the revised section. The words ''at the mints of the United States'' and ''according to the legally prescribed standards and devices of such country'' are omitted as unnecessary because of the restatement. The words ''The Secretary of the Treasury . . . shall prescribe a charge'' are substituted for ''the charge . . . to be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury'' because of the source provisions restated in section 321(c) of the revised title. The words ''minting the foreign coins'' are substituted for ''the same'', for clarity. The words ''under such regulations as the Secretary of the Treasury may prescribe'' are omitted as unnecessary because of section 321(b) of the revised title.

In subsection (b), the first sentence is added for clarity and because of the restatement. The words ''amount by which the nominal value of the coins minted from the metal exceeds the cost of the metal'' are substituted for ''gain arising from the coinage of metals purchased out of such fund into coin of a nominal value exceeding the cost of such metals'' to eliminate unnecessary words. The words ''The Secretary shall deposit in the Treasury as miscellaneous receipts excess amounts in the coinage profit fund'' are substituted for ''such sums as shall from time to time be transferred therefrom to the general fund of the Treasury'' for clarity and for consistency in the revised title.

In subsection (c), the words ''metallic strip'' are omitted as being included in ''materials'', and the word ''terms'' is omitted as being included in ''conditions''.

In subsection (d)(1), the words ''prohibit or limit'' are substituted for ''prohibit, curtail, or regulate'' because of the restatement and to eliminate unnecessary words. The words ''prohibition or limitation'' are substituted for ''such action'' because of the restatement. The words ''under such rules and regulations as he may prescribe'' are omitted as unnecessary because of section 321(b) of the revised title.

In subsection (d)(2), the word ''person'' is substituted for ''Whoever'' for consistency in the revised title.

In subsection (d)(3), the words ''and his delegates'' are omitted as unnecessary because of the power of the Secretary to delegate under section 321(b) of the revised title. The word ''remedies'' is substituted for ''judicial and other remedies available to the United States'' to eliminate unnecessary words. The words ''of property subject to forfeiture pursuant to subsection (a) of this section'' and ''for the enforcement of forfeitures of property subject to forfeiture under any provision of title 26'' are omitted as unnecessary because of the restatement.

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsec. (d)(3), was redesignated the Internal Revenue Code

[1] See References in Text note below.

of 1986 by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, and is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–390 inserted ‘‘, including the cost of coin bags and pallets’’ after ‘‘distributing the coins’’ in fourth sentence.

1988—Subsec. (c). Pub. L. 100–274 inserted heading and amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ‘‘The Secretary may make contracts on conditions the Secretary decides are appropriate and in the public interest to acquire equipment, manufacturing facilities, patents, patent rights, technical knowledge and assistance, and materials necessary to produce rapidly an adequate supply of coins referred to in section 5112(a)(1)–(4) of this title.’’

TERMINATION OF COINAGE PROFIT FUND AND COINAGE METAL FUND

All assets and liabilities of Coinage Profit Fund and Coinage Metal Fund transferred to United States Mint Public Enterprise Fund and both coinage funds to cease to exist as separate funds as their activities and functions are subsumed under and subject to United States Mint Public Enterprise Fund, see section 5136 of this title.

COMMEMORATIVE MEDALS

Provisions authorizing commemorative medals were contained in the following acts:

Pub. L. 110–420, Oct. 15, 2008, 122 Stat. 4774, recognizing Native American code talkers.

Pub. L. 110–260, July 1, 2008, 122 Stat. 2433, recognizing Senator Edward William Brooke III.

Pub. L. 110–259, July 1, 2008, 122 Stat. 2430, recognizing Constantino Brumidi.

Pub. L. 110–209, May 6, 2008, 122 Stat. 721, recognizing Aung San Suu Kyi.

Pub. L. 110–95, Oct. 16, 2007, 121 Stat. 1008, recognizing Michael Ellis DeBakey, M.D.

Pub. L. 109–395, Dec. 14, 2006, 120 Stat. 2708, recognizing Dr. Norman E. Borlaug.

Pub. L. 109–357, Oct. 16, 2006, 120 Stat. 2044, recognizing Byron Nelson.

Pub. L. 109–287, Sept. 27, 2006, 120 Stat. 1231, recognizing the Fourteenth Dalai Lama.

Pub. L. 109–213, Apr. 11, 2006, 120 Stat. 322, recognizing the Tuskegee Airmen.

Pub. L. 108–447, div. B, title I, § 124, Dec. 8, 2004, 118 Stat. 2871, as amended by Pub. L. 109–13, div. A, title VI, § 6060, May 11, 2005, 119 Stat. 297, recognizing members of public safety agencies killed in the terrorist attacks in the United States on Sept. 11, 2001.

Pub. L. 108–368, Oct. 25, 2004, 118 Stat. 1746, recognizing Reverend Doctor Martin Luther King, Jr., and his widow Coretta Scott King.

Pub. L. 108–180, Dec. 15, 2003, 117 Stat. 2645, recognizing Reverend Joseph A. DeLaine, Harry and Eliza Briggs, and Levi Pearson.

Pub. L. 108–162, Dec. 6, 2003, 117 Stat. 2017, recognizing Dr. Dorothy Irene Height.

Pub. L. 108–101, Oct. 29, 2003, 117 Stat. 1195, recognizing Jackie Robinson.

Pub. L. 108–60, July 17, 2003, 117 Stat. 862, recognizing Prime Minister Tony Blair.

Pub. L. 107–127, Jan. 16, 2002, 115 Stat. 2405, recognizing General Henry H. Shelton.

Pub. L. 106–554, § 1(a)(4) [div. B, title XI, § 1101], Dec. 21, 2000, 114 Stat. 2763, 2763A–311, recognizing the Navajo Code Talkers.

Pub. L. 106–251, July 27, 2000, 114 Stat. 624, recognizing Ronald and Nancy Reagan.

Pub. L. 106–250, July 27, 2000, 114 Stat. 622, recognizing Pope John Paul II.

Pub. L. 106–225, June 20, 2000, 114 Stat. 457, recognizing Charles M. Schulz.

Pub. L. 106–175, Mar. 5, 2000, 114 Stat. 21, recognizing Archbishop John Cardinal O'Connor.

Pub. L. 106–153, Dec. 9, 1999, 113 Stat. 1733, recognizing Father Theodore M. Hesburgh.

Pub. L. 106–26, May 4, 1999, 113 Stat. 50, recognizing Rosa Parks.

Pub. L. 105–277, div. C, title I, § 139(a), Oct. 21, 1998, 112 Stat. 2681–597, recognizing the individuals commonly referred to as the ‘‘Little Rock Nine’’.

Pub. L. 105–277, div. C, title I, § 139(b), Oct. 21, 1998, 112 Stat. 2681–598, recognizing Gerald R. and Betty Ford.

Pub. L. 105–215, July 29, 1998, 112 Stat. 895, recognizing Nelson Rolihlahla Mandela.

Pub. L. 105–51, Oct. 6, 1997, 111 Stat. 1170, recognizing Ecumenical Patriarch Bartholomew.

Pub. L. 105–16, June 2, 1997, 111 Stat. 35, recognizing Mother Teresa of Calcutta.

Pub. L. 105–14, May 14, 1997, 111 Stat. 32, recognizing Frank Sinatra.

Pub. L. 104–201, div. A, title X, § 1066, Sept. 23, 1996, 110 Stat. 2654, recognizing civilians who defended Pearl Harbor.

Pub. L. 104–111, Feb. 13, 1996, 110 Stat. 772, recognizing Billy and Ruth Graham.

Pub. L. 103–457, Nov. 2, 1994, 108 Stat. 4799, recognizing Rabbi Menachem Mendel Schneerson.

Pub. L. 102–479, Oct. 23, 1992, 106 Stat. 2308, commemorating the 250th anniversary of the founding of the American Philosophical Society and of the birth of Thomas Jefferson.

Pub. L. 102–406, Oct. 12, 1992, 106 Stat. 1986, commemorating Benjamin Franklin's contributions to American fire services.

Pub. L. 102–281, title III, May 13, 1992, 106 Stat. 137; Pub. L. 103–328, title II, § 203, Sept. 29, 1994, 108 Stat. 2369, recognizing members of the United States Armed Forces who served in a combat zone in connection with the Persian Gulf conflict.

Pub. L. 102–33, Apr. 23, 1991, 105 Stat. 177, recognizing General Colin L. Powell.

Pub. L. 102–32, Apr. 23, 1991, 105 Stat. 175, recognizing General H. Norman Schwarzkopf.

Pub. L. 101–510, div. A, title XIV, §§ 1491, 1494, Nov. 5, 1990, 104 Stat. 1720, 1722, recognizing General Matthew B. Ridgway.

Pub. L. 101–510, div. A, title XIV, §§ 1492, 1494, Nov. 5, 1990, 104 Stat. 1721, 1722, recognizing veterans of the Armed Forces of the United States who were present in Hawaii on Dec. 7, 1941, and participated in combat operations that day.

Pub. L. 101–510, div. A, title XIV, §§ 1493, 1494, Nov. 5, 1990, 104 Stat. 1722, commemorating centennial of Yosemite National Park.

Pub. L. 101–296, May 17, 1990, 104 Stat. 197, recognizing Laurance Spelman Rockefeller.

Pub. L. 101–260, Mar. 30, 1990, 104 Stat. 122, commemorating bicentennial of United States Coast Guard.

Pub. L. 100–639, Nov. 9, 1988, 102 Stat. 3331, recognizing Andrew Wyeth.

Pub. L. 100–437, §§ 1–3, Sept. 20, 1988, 102 Stat. 1717, recognizing Jesse Owens.

Pub. L. 100–210, §§ 1, 2, Dec. 24, 1987, 101 Stat. 1441, recognizing Mary Lasker.

Pub. L. 99–418, Sept. 23, 1986, 100 Stat. 952, recognizing Aaron Copland.

Pub. L. 99–311, May 20, 1986, 100 Stat. 464, recognizing Harry Chapin.

Pub. L. 99–298, May 13, 1986, 100 Stat. 432, recognizing Natan (Anatoly) and Avital Shcharansky.

Pub. L. 99–295, May 12, 1986, 100 Stat. 427; Pub. L. 100–210, § 3, Dec. 24, 1987, 101 Stat. 1441; Pub. L. 100–437, § 4, Sept. 20, 1988, 102 Stat. 1717, commemorating the Young Astronaut Program.

Pub. L. 95–630, title IV, §§ 401–407, Nov. 10, 1978, 92 Stat. 3679, 3680, recognizing outstanding individuals in the American arts.

## § 5112. Denominations, specifications, and design of coins

(a) The Secretary of the Treasury may mint and issue only the following coins:

(1) a dollar coin that is 1.043 inches in diameter.

(2) a half dollar coin that is 1.205 inches in diameter and weighs 11.34 grams.

(3) a quarter dollar coin that is 0.955 inch in diameter and weighs 5.67 grams.

(4) a dime coin that is 0.705 inch in diameter and weighs 2.268 grams.

(5) a 5-cent coin that is 0.835 inch in diameter and weighs 5 grams.

(6) except as provided under subsection (c) of this section, a one-cent coin that is 0.75 inch in diameter and weighs 3.11 grams.

(7) A fifty dollar gold coin that is 32.7 millimeters in diameter, weighs 33.931 grams, and contains one troy ounce of fine gold.

(8) A twenty-five dollar gold coin that is 27.0 millimeters in diameter, weighs 16.966 grams, and contains one-half troy ounce of fine gold.

(9) A ten dollar gold coin that is 22.0 millimeters in diameter, weighs 8.483 grams, and contains one-fourth troy ounce of fine gold.

(10) A five dollar gold coin that is 16.5 millimeters in diameter, weighs 3.393 grams, and contains one-tenth troy ounce of fine gold.

(11) A $50 gold coin that is of an appropriate size and thickness, as determined by the Secretary, weighs 1 ounce, and contains 99.99 percent pure gold.

(b) The half dollar, quarter dollar, and dime coins are clad coins with 3 layers of metal. The 2 identical outer layers are an alloy of 75 percent copper and 25 percent nickel. The inner layer is copper. The outer layers are metallurgically bonded to the inner layer and weigh at least 30 percent of the weight of the coin. The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernible, be minted and fabricated in the United States, and have similar metallic, anticounterfeiting properties as United States coinage in circulation on the date of enactment of the United States $1 Coin Act of 1997. The 5-cent coin is an alloy of 75 percent copper and 25 percent nickel. In minting 5-cent coins, the Secretary shall use bars that vary not more than 2.5 percent from the percent of nickel required. Except as provided under subsection (c) of this section, the one-cent coin is an alloy of 95 percent copper and 5 percent zinc. In minting gold coins, the Secretary shall use alloys that vary not more than 0.1 percent from the percent of gold required. The specifications for alloys are by weight.

(c) The Secretary may prescribe the weight and the composition of copper and zinc in the alloy of the one-cent coin that the Secretary decides are appropriate when the Secretary decides that a different weight and alloy of copper and zinc are necessary to ensure an adequate supply of one-cent coins to meet the needs of the United States.

(d)(1) United States coins shall have the inscription ''In God We Trust''. The obverse side of each coin shall have the inscription ''Liberty''. The reverse side of each coin shall have the inscriptions ''United States of America'' and ''E Pluribus Unum'' and a designation of the value of the coin. The design on the reverse side of the dollar, half dollar, and quarter dollar is an eagle. Subject to other provisions of this subsection, the obverse of any 5-cent coin issued after December 31, 2005, shall bear the likeness of Thomas Jefferson and the reverse of any such 5-cent coin shall bear an image of the home of Thomas Jefferson at Monticello. The Secretary of the Treasury, in consultation with the Congress, shall select appropriate designs for the obverse and reverse sides of the dollar coin. The coins have an inscription of the year of minting or issuance. However, to prevent or alleviate a shortage of a denomination, the Secretary may inscribe coins of the denomination with the year that was last inscribed on coins of the denomination.

(2) The Secretary shall prepare the devices, models, hubs, and dies for coins, emblems, devices, inscriptions, and designs authorized under this chapter. The Secretary may, after consulting with the Citizens Coinage Advisory Committee and the Commission of Fine Arts, adopt and prepare new designs or models of emblems or devices that are authorized in the same way as when new coins or devices are authorized. The Secretary may change the design or die of a coin only once within 25 years of the first adoption of the design, model, hub, or die for that coin. The Secretary may procure services under section 3109 of title 5 in carrying out this paragraph.

(e) Notwithstanding any other provision of law, the Secretary shall mint and issue, in quantities sufficient to meet public demand, coins which—

(1) are 40.6 millimeters in diameter and weigh 31.103 grams;

(2) contain .999 fine silver;

(3) have a design—

(A) symbolic of Liberty on the obverse side; and

(B) of an eagle on the reverse side;

(4) have inscriptions of the year of minting or issuance, and the words ''Liberty'', ''In God We Trust'', ''United States of America'', ''1 Oz. Fine Silver'', ''E Pluribus Unum'', and ''One Dollar''; and

(5) have reeded edges.

(f) SILVER COINS.—

(1) SALE PRICE.—The Secretary shall sell the coins minted under subsection (e) to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins minted under subsection (e) at a reasonable discount.

(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of this title, all coins minted under subsection (e) shall be considered to be numismatic items.

(g) For purposes of section 5132(a)(1) of this title, all coins minted under subsection (e) of this section shall be considered to be numismatic items.

(h) The coins issued under this title shall be legal tender as provided in section 5103 of this title.

(i)(1) Notwithstanding section 5111(a)(1) of this title, the Secretary shall mint and issue the

gold coins described in paragraphs (7), (8), (9), and (10) of subsection (a) of this section, in quantities sufficient to meet public demand, and such gold coins shall—

(A) have a design determined by the Secretary, except that the fifty dollar gold coin shall have—

(i) on the obverse side, a design symbolic of Liberty; and

(ii) on the reverse side, a design representing a family of eagles, with the male carrying an olive branch and flying above a nest containing a female eagle and hatchlings;

(B) have inscriptions of the denomination, the weight of the fine gold content, the year of minting or issuance, and the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''; and

(C) have reeded edges.

(2)(A) The Secretary shall sell the coins minted under this subsection to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

(B) The Secretary shall make bulk sales of the coins minted under this subsection at a reasonable discount.

(3) For purposes of section 5132(a)(1) of this title, all coins minted under this subsection shall be considered to be numismatic items.

(4)(A) Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of the Treasury may change the diameter, weight, or design of any coin minted under this subsection or the fineness of the gold in the alloy of any such coin if the Secretary determines that the specific diameter, weight, design, or fineness of gold which differs from that otherwise required by law is appropriate for such coin.

(B) The Secretary may not mint any coin with respect to which a determination has been made by the Secretary under subparagraph (A) before the end of the 30-day period beginning on the date a notice of such determination is published in the Federal Register.

(C) The Secretary may continue to mint and issue coins in accordance with the specifications contained in paragraphs (7), (8), (9), and (10) of subsection (a) and paragraph (1)(A) of this subsection at the same time the Secretary in minting and issuing other bullion and proof gold coins under this subsection in accordance with such program procedures and coin specifications, designs, varieties, quantities, denominations, and inscriptions as the Secretary, in the Secretary's discretion, may prescribe from time to time.

(j) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for minting, marketing, or issuing any coin authorized under paragraph (7), (8), (9), or (10) of subsection (a) or subsection (e), including any proof version of any such coin.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract with respect to any coin referred to in such paragraph from complying with any law relating to equal employment opportunity.

(k) The Secretary may mint and issue platinum bullion coins and proof platinum coins in accordance with such specifications, designs, varieties, quantities, denominations, and inscriptions as the Secretary, in the Secretary's discretion, may prescribe from time to time.

(*l*) REDESIGN AND ISSUANCE OF QUARTER DOLLAR IN COMMEMORATION OF EACH OF THE 50 STATES.—

(1) REDESIGN BEGINNING IN 1999.—

(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2), quarter dollar coins issued during the 10-year period beginning in 1999, shall have designs on the reverse side selected in accordance with this subsection which are emblematic of the 50 States.

(B) TRANSITION PROVISION.—Notwithstanding subparagraph (A), the Secretary may continue to mint and issue quarter dollars in 1999 which bear the design in effect before the redesign required under this subsection and an inscription of the year ''1998'' as required to ensure a smooth transition into the 10-year program under this subsection.

(C) FLEXIBILITY WITH REGARD TO PLACEMENT OF INSCRIPTIONS.—Notwithstanding subsection (d)(1), the Secretary may select a design for quarter dollars issued during the 10-year period referred to in subparagraph (A) in which—

(i) the inscription described in the second sentence of subsection (d)(1) appears on the reverse side of any such quarter dollars; and

(ii) any inscription described in the third sentence of subsection (d)(1) or the designation of the value of the coin appears on the obverse side of any such quarter dollars.

(2) SINGLE STATE DESIGNS.—The design on the reverse side of each quarter dollar issued during the 10-year period referred to in paragraph (1) shall be emblematic of 1 of the 50 States.

(3) ISSUANCE OF COINS COMMEMORATING 5 STATES DURING EACH OF THE 10 YEARS.—

(A) IN GENERAL.—The designs for the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1) shall be emblematic of 5 States selected in the order in which such States ratified the Constitution of the United States or were admitted into the Union, as the case may be.

(B) NUMBER OF EACH OF 5 COIN DESIGNS IN EACH YEAR.—Of the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1), the Secretary of the Treasury shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollars which shall be issued with each of the 5 designs selected for such year.

(4) SELECTION OF DESIGN.—

(A) IN GENERAL.—Each of the 50 designs required under this subsection for quarter dollars shall be—

(i) selected by the Secretary after consultation with—

(I) the Governor of the State being commemorated, or such other State officials or group as the State may designate for such purpose; and

(II) the Commission of Fine Arts; and

(ii) reviewed by the Citizens Coinage Advisory Committee.

(B) SELECTION AND APPROVAL PROCESS.—Designs for quarter dollars may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

(C) PARTICIPATION.—The Secretary may include participation by State officials, artists from the States, engravers of the United States Mint, and members of the general public.

(D) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

(E) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, and no portrait of a living person may be included in the design of any quarter dollar under this subsection.

(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

(6) ISSUANCE.—

(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) in uncirculated and proof qualities as the Secretary determines to be appropriate.

(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

(C) SOURCES OF BULLION.—The Secretary shall obtain silver for minting coins under subparagraph (B) from available resources, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(7) APPLICATION IN EVENT OF THE ADMISSION OF ADDITIONAL STATES.—If any additional State is admitted into the Union before the end of the 10-year period referred to in paragraph (1), the Secretary of the Treasury may issue quarter dollar coins, in accordance with this subsection, with a design which is emblematic of such State during any 1 year of such 10-year period, in addition to the quarter dollar coins issued during such year in accordance with paragraph (3)(A).

(m) COMMEMORATIVE COIN PROGRAM RESTRICTIONS.—

(1) MAXIMUM NUMBER.—Beginning January 1, 1999, the Secretary may mint and issue commemorative coins under this section during any calendar year with respect to not more than 2 commemorative coin programs.

(2) MINTAGE LEVELS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in carrying out any commemorative coin program, the Secretary shall mint—

(i) not more than 750,000 clad half-dollar coins;

(ii) not more than 500,000 silver one-dollar coins; and

(iii) not more than 100,000 gold five-dollar or ten-dollar coins.

(B) EXCEPTION.—If the Secretary determines, based on independent, market-based research conducted by a designated recipient organization of a commemorative coin program, that the mintage levels described in subparagraph (A) are not adequate to meet public demand for that commemorative coin, the Secretary may waive one or more of the requirements of subparagraph (A) with respect to that commemorative coin program.

(C) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this paragraph, the term ''designated recipient organization'' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.

(n) REDESIGN AND ISSUANCE OF CIRCULATING $1 COINS HONORING EACH OF THE PRESIDENTS OF THE UNITED STATES.—

(1) REDESIGN BEGINNING IN 2007.—Notwithstanding subsection (d) and in accordance with the provisions of this subsection, $1 coins issued during the period beginning January 1, 2007, and ending upon the termination of the program under paragraph (8), shall—

(A) have designs on the obverse selected in accordance with paragraph (2)(B) which are emblematic of the Presidents of the United States; and

(B) have a design on the reverse selected in accordance with paragraph (2)(A).

(2) DESIGN REQUIREMENTS.—The $1 coins issued in accordance with paragraph (1)(A) shall meet the following design requirements:

(A) COIN REVERSE.—The design on the reverse shall bear—

(i) a likeness of the Statue of Liberty extending to the rim of the coin and large enough to provide a dramatic representation of Liberty while not being large enough to create the impression of a ''2-headed'' coin;

(ii) the inscription ''$1''; and

(iii) the inscription ''United States of America''.

(B) COIN OBVERSE.—The design on the obverse shall contain—

(i) the name and likeness of a President of the United States; and

(ii) basic information about the President, including—

(I) the dates or years of the term of office of such President; and

(II) a number indicating the order of the period of service in which the President served.

(C) EDGE-INCUSED INSCRIPTIONS.—

(i) IN GENERAL.—The inscription of the year of minting or issuance of the coin and the inscription ''E Pluribus Unum'' shall be edge-incused into the coin.

(ii) PRESERVATION OF DISTINCTIVE EDGE.—The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

(D) INSCRIPTIONS OF ''LIBERTY''.—Notwithstanding the second sentence of subsection (d)(1), because the use of a design bearing the likeness of the Statue of Liberty on the reverse of the coins issued under this subsection adequately conveys the concept of Liberty, the inscription of ''Liberty'' shall not appear on the coins.

(E) LIMITATION IN SERIES TO DECEASED PRESIDENTS.—No coin issued under this subsection may bear the image of a living former or current President, or of any deceased former President during the 2-year period following the date of the death of that President.

(F) INSCRIPTION OF ''IN GOD WE TRUST''.—The design on the obverse or the reverse shall bear the inscription ''In God We Trust''.

(3) ISSUANCE OF COINS COMMEMORATING PRESIDENTS.—

(A) ORDER OF ISSUANCE.—The coins issued under this subsection commemorating Presidents of the United States shall be issued in the order of the period of service of each President, beginning with President George Washington.

(B) TREATMENT OF PERIOD OF SERVICE.—

(i) IN GENERAL.—Subject to clause (ii), only 1 coin design shall be issued for a period of service for any President, no matter how many consecutive terms of office the President served.

(ii) NONCONSECUTIVE TERMS.—If a President has served during 2 or more nonconsecutive periods of service, a coin shall be issued under this subsection for each such nonconsecutive period of service.

(4) ISSUANCE OF COINS COMMEMORATING 4 PRESIDENTS DURING EACH YEAR OF THE PERIOD.—

(A) IN GENERAL.—The designs for the $1 coins issued during each year of the period referred to in paragraph (1) shall be emblematic of 4 Presidents until each President has been so honored, subject to paragraph (2)(E).

(B) NUMBER OF 4 CIRCULATING COIN DESIGNS IN EACH YEAR.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of $1 coins that shall be issued with each of the designs selected for each year of the period referred to in paragraph (1).

(5) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

(6) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section[1] 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

(7) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of $1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

(8) TERMINATION OF PROGRAM.—The issuance of coins under this subsection shall terminate when each President has been so honored, subject to paragraph (2)(E), and may not be resumed except by an Act of Congress.

(9) REVERSION TO PRECEDING DESIGN.—Upon the termination of the issuance of coins under this subsection, the design of all $1 coins shall revert to the so-called ''Sacagawea-design'' $1 coins.

(*o*) FIRST SPOUSE BULLION COIN PROGRAM.—

(1) IN GENERAL.—During the same period described in subsection (n), the Secretary shall issue bullion coins under this subsection that are emblematic of the spouse of each such President.

(2) SPECIFICATIONS.—The coins issued under this subsection shall—

(A) have the same diameter as the $1 coins described in subsection (n);

(B) weigh 0.5 ounce; and

(C) contain 99.99 percent pure gold.

(3) DESIGN REQUIREMENTS.—

(A) COIN OBVERSE.—The design on the obverse of each coin issued under this subsection shall contain—

(i) the name and likeness of a person who was a spouse of a President during the President's period of service;

(ii) an inscription of the years during which such person was the spouse of a President during the President's period of service; and

(iii) a number indicating the order of the period of service in which such President served.

(B) COIN REVERSE.—The design on the reverse of each coin issued under this subsection shall bear—

(i) images emblematic of the life and work of the First Spouse whose image is borne on the obverse; and

(ii) the inscription ''United States of America''.

(C) DESIGNATED DENOMINATION.—Each coin issued under this subsection shall bear, on the reverse, an inscription of the nominal denomination of the coin which shall be ''$10''.

(D) DESIGN IN CASE OF NO FIRST SPOUSE.—In the case of any President who served without a spouse—

[1] So in original. Probably should be ''sections''.

(i) the image on the obverse of the bullion coin corresponding to the $1 coin relating to such President shall be an image emblematic of the concept of ''Liberty''—

(I) as represented on a United States coin issued during the period of service of such President; or

(II) as represented, in the case of President Chester Alan Arthur, by a design incorporating the name and likeness of Alice Paul, a leading strategist in the suffrage movement, who was instrumental in gaining women the right to vote upon the adoption of the 19th amendment and thus the ability to participate in the election of future Presidents, and who was born on January 11, 1885, during the term of President Arthur; and

(ii) the reverse of such bullion coin shall be of a design representative of themes of such President, except that in the case of the bullion coin referred to in clause (i)(II) the reverse of such coin shall be representative of the suffrage movement.

(E) DESIGN AND COIN FOR EACH SPOUSE.—A separate coin shall be designed and issued under this section for each person who was the spouse of a President during any portion of a term of office of such President.

(F) INSCRIPTIONS.—Each bullion coin issued under this subsection shall bear the inscription of the year of minting or issuance of the coin and such other inscriptions as the Secretary may determine to be appropriate.

(4) SALE OF BULLION COINS.—Each bullion coin issued under this subsection shall be sold by the Secretary at a price that is equal to or greater than the sum of—

(A) the face value of the coins; and

(B) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(5) ISSUANCE OF COINS COMMEMORATING FIRST SPOUSES.—

(A) IN GENERAL.—The bullion coins issued under this subsection with respect to any spouse of a President shall be issued on the same schedule as the $1 coin issued under subsection (n) with respect to each such President.

(B) MAXIMUM NUMBER OF BULLION COINS FOR EACH DESIGN.—The Secretary shall—

(i) prescribe, on the basis of such factors as the Secretary determines to be appropriate, the maximum number of bullion coins that shall be issued with each of the designs selected under this subsection; and

(ii) announce, before the issuance of the bullion coins of each such design, the maximum number of bullion coins of that design that will be issued.

(C) TERMINATION OF PROGRAM.—No bullion coin may be issued under this subsection after the termination, in accordance with subsection (n)(8), of the $1 coin program established under subsection (n).

(6) QUALITY OF COINS.—The bullion coins minted under this Act shall be issued in both proof and uncirculated qualities.

(7) SOURCE OF GOLD BULLION.—

(A) IN GENERAL.—The Secretary shall acquire gold for the coins issued under this subsection by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined.

(B) PRICE OF GOLD.—The Secretary shall pay not more than the average world price for the gold mined under subparagraph (A).

(8) BRONZE MEDALS.—The Secretary may strike and sell bronze medals that bear the likeness of the bullion coins authorized under this subsection, at a price, size, and weight, and with such inscriptions, as the Secretary determines to be appropriate.

(9) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

(10) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section[1] 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

(p) REMOVAL OF BARRIERS TO CIRCULATION OF $1 COIN.—

(1) ACCEPTANCE BY AGENCIES AND INSTRUMENTALITIES.—Beginning January 1, 2006, all agencies and instrumentalities of the United States, the United States Postal Service, all nonappropriated fund instrumentalities established under title 10, United States Code, all transit systems that receive operational subsidies or any disbursement of funds from the Federal Government, such as funds from the Federal Highway Trust Fund, including the Mass Transit Account, and all entities that operate any business, including vending machines, on any premises owned by the United States or under the control of any agency or instrumentality of the United States, including the legislative and judicial branches of the Federal Government, shall take such action as may be appropriate to ensure that by the end of the 2-year period beginning on such date—

(A) any business operations conducted by any such agency, instrumentality, system, or entity that involve coins or currency will be fully capable of—

(i) accepting $1 coins in connection with such operations; and

(ii) other than vending machines that do not receive currency denominations higher than $1, dispensing $1 coins in connection with such operations; and

(B) displays signs and notices denoting such capability on the premises where coins or currency are accepted or dispensed, including on each vending machine.

(2) PUBLICITY.—The Director of the United States Mint,[2] shall work closely with consumer groups, media outlets, and schools to ensure an adequate amount of news coverage, and other means of increasing public awareness, of the inauguration of the Presidential $1 Coin Program established in subsection (n) to

[2] So in original. The comma probably should not appear.

ensure that consumers know of the availability of the coin.

(3) COORDINATION.—The Board of Governors of the Federal Reserve System and the Secretary shall take steps to ensure that an adequate supply of $1 coins is available for commerce and collectors at such places and in such quantities as are appropriate by—

(A) consulting, to accurately gauge demand for coins and to anticipate and eliminate obstacles to the easy and efficient distribution and circulation of $1 coins as well as all other circulating coins, from time to time but no less frequently than annually, with a coin users group, which may include—

(i) representatives of merchants who would benefit from the increased usage of $1 coins;

(ii) vending machine and other coin acceptor manufacturers;

(iii) vending machine owners and operators;

(iv) transit officials;

(v) municipal parking officials;

(vi) depository institutions;

(vii) coin and currency handlers;

(viii) armored-car operators;

(ix) car wash operators; and

(x) coin collectors and dealers;

(B) submitting an annual report to the Congress containing—

(i) an assessment of the remaining obstacles to the efficient and timely circulation of coins, particularly $1 coins;

(ii) an assessment of the extent to which the goals of subparagraph (C) are being met; and

(iii) such recommendations for legislative action the Board and the Secretary may determine to be appropriate;

(C) consulting with industry representatives to encourage operators of vending machines and other automated coin-accepting devices in the United States to accept coins issued under the Presidential $1 Coin Program established under subsection (n) and any coins bearing any design in effect before the issuance of coins required under subsection (n) (including the so-called ''Sacagawea-design'' $1 coins), and to include notices on the machines and devices of such acceptability;

(D) ensuring that—

(i) during an introductory period, all institutions that want unmixed supplies of each newly-issued design of $1 coins minted under subsections (n) and (*o*) are able to obtain such unmixed supplies; and

(ii) circulating coins will be available for ordinary commerce in packaging of sizes and types appropriate for and useful to ordinary commerce, including rolled coins;

(E) working closely with any agency, instrumentality, system, or entity referred to in paragraph (1) to facilitate compliance with the requirements of such paragraph; and

(F) identifying, analyzing, and overcoming barriers to the robust circulation of $1 coins minted under subsections (n) and (*o*), including the use of demand prediction, improved methods of distribution and circulation, and improved public education and awareness campaigns.

(4) BULLION DEALERS.—The Director of the United States Mint shall take all steps necessary to ensure that a maximum number of reputable, reliable, and responsible dealers are qualified to offer for sale all bullion coins struck and issued by the United States Mint.

(5) REVIEW OF CO-CIRCULATION.—At such time as the Secretary determines to be appropriate, and after consultation with the Board of Governors of the Federal Reserve System, the Secretary shall notify the Congress of its assessment of issues related to the co-circulation of any circulating $1 coin bearing any design, other than the so-called ''Sacagawea-design'' $1 coin, in effect before the issuance of coins required under subsection (n), including the effect of co-circulation on the acceptance and use of $1 coins, and make recommendations to the Congress for improving the circulation of $1 coins.

(q) GOLD BULLION COINS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Presidential $1 Coin Act of 2005, the Secretary shall commence striking and issuing for sale such number of $50 gold bullion and proof coins as the Secretary may determine to be appropriate, in such quantities, as the Secretary, in the Secretary's discretion, may prescribe.

(2) INITIAL DESIGN.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the obverse and reverse of the gold bullion coins struck under this subsection during the first year of issuance shall bear the original designs by James Earle Fraser, which appear on the 5-cent coin commonly referred to as the ''Buffalo nickel'' or the ''1913 Type 1''.

(B) VARIATIONS.—The coins referred to in subparagraph (A) shall—

(i) have inscriptions of the weight of the coin and the nominal denomination of the coin incused in that portion of the design on the reverse of the coin commonly known as the ''grassy mound''; and

(ii) bear such other inscriptions as the Secretary determines to be appropriate.

(3) SUBSEQUENT DESIGNS.—After the 1-year period described to in paragraph (2), the Secretary may—

(A) after consulting with the Commission of Fine Arts, and subject to the review of the Citizens Coinage Advisory Committee, change the design on the obverse or reverse of gold bullion coins struck under this subsection; and

(B) change the maximum number of coins issued in any year.

(4) SOURCE OF GOLD BULLION.—

(A) IN GENERAL.—The Secretary shall acquire gold for the coins issued under this subsection by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United

States, within 1 year after the month in which the ore from which it is derived was mined.

(B) PRICE OF GOLD.—The Secretary shall pay not more than the average world price for the gold mined under subparagraph (A).

(5) SALE OF COINS.—Each gold bullion coin issued under this subsection shall be sold for an amount the Secretary determines to be appropriate, but not less than the sum of—

(A) the market value of the bullion at the time of sale; and

(B) the cost of designing and issuing the coins, including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping.

(6) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

(7) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section[1] 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

(8) PROTECTIVE COVERING.—

(A) IN GENERAL.—Each bullion coin having a metallic content as described in subsection (a)(11) and a design specified in paragraph (2) shall be sold in an inexpensive covering that will protect the coin from damage due to ordinary handling or storage.

(B) DESIGN.—The protective covering required under subparagraph (A) shall be readily distinguishable from any coin packaging that may be used to protect proof coins minted and issued under this subsection.

(r)[3] REDESIGN AND ISSUANCE OF CIRCULATING $1 COINS HONORING NATIVE AMERICANS AND THE IMPORTANT CONTRIBUTIONS MADE BY INDIAN TRIBES AND INDIVIDUAL NATIVE AMERICANS IN UNITED STATES HISTORY.—

(1) REDESIGN BEGINNING IN 2008.—

(A) IN GENERAL.—Effective beginning January 1, 2008, notwithstanding subsection (d), in addition to the coins to be issued pursuant to subsection (n), and in accordance with this subsection, the Secretary shall mint and issue $1 coins that—

(i) have as the designs on the obverse the so-called ''Sacagawea design''; and

(ii) have a design on the reverse selected in accordance with paragraph (2)(A), subject to paragraph (3)(A).

(B) DELAYED DATE.—If the date of the enactment of the Native American $1 Coin Act is after August 25, 2007, subparagraph (A) shall be applied by substituting ''2009'' for ''2008''.

(2) DESIGN REQUIREMENTS.—The $1 coins issued in accordance with paragraph (1) shall meet the following design requirements:

(A) COIN REVERSE.—The design on the reverse shall bear—

(i) images celebrating the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States;

(ii) the inscription ''$1''; and

(iii) the inscription ''United States of America''.

(B) COIN OBVERSE.—The design on the obverse shall—

(i) be chosen by the Secretary, after consultation with the Commission of Fine Arts and review by the Citizens Coinage Advisory Committee; and

(ii) contain the so-called ''Sacagawea design'' and the inscription ''Liberty''.

(C) EDGE-INCUSED INSCRIPTIONS.—

(i) IN GENERAL.—The inscription of the year of minting and issuance of the coin and the inscription ''E Pluribus Unum'' shall be edge-incused into the coin.

(ii) PRESERVATION OF DISTINCTIVE EDGE.—The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

(D) REVERSE DESIGN SELECTION.—The designs selected for the reverse of the coins described under this subsection—

(i) shall be chosen by the Secretary after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, the Commission of Fine Arts, and the National Congress of American Indians;

(ii) shall be reviewed by the Citizens Coinage Advisory Committee;

(iii) may depict individuals and events such as—

(I) the creation of Cherokee written language;

(II) the Iroquois Confederacy;

(III) Wampanoag Chief Massasoit;

(IV) the ''Pueblo Revolt'';

(V) Olympian Jim Thorpe;

(VI) Ely S. Parker, a general on the staff of General Ulysses S. Grant and later head of the Bureau of Indian Affairs; and

(VII) code talkers who served the United States Armed Forces during World War I and World War II; and

(iv) in the case of a design depicting the contribution of an individual Native American to the development of the United States and the history of the United States, shall not depict the individual in a size such that the coin could be considered to be a ''2-headed'' coin.

(E) INSCRIPTION OF ''IN GOD WE TRUST''.—The design on the obverse or the reverse shall bear the inscription ''In God We Trust''.

(3) ISSUANCE OF COINS COMMEMORATING 1 NATIVE AMERICAN EVENT DURING EACH YEAR.—

(A) IN GENERAL.—Each design for the reverse of the $1 coins issued during each year shall be emblematic of 1 important Native American or Native American contribution each year.

[3] So in original. Two subsecs. (r) have been enacted.

(B) ISSUANCE PERIOD.—Each $1 coin minted with a design on the reverse in accordance with this subsection for any year shall be issued during the 1-year period beginning on January 1 of that year and shall be available throughout the entire 1-year period.

(C) ORDER OF ISSUANCE OF DESIGNS.—Each coin issued under this subsection commemorating Native Americans and their contributions—

(i) shall be issued, to the maximum extent practicable, in the chronological order in which the Native Americans lived or the events occurred, until the termination of the coin program described in subsection (n); and

(ii) thereafter shall be issued in any order determined to be appropriate by the Secretary, after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, and the National Congress of American Indians.

(4) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of $1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

(5) QUANTITY.—The number of $1 coins minted and issued in a year with the Sacagawea-design on the obverse shall be not less than 20 percent of the total number of $1 coins minted and issued in such year.

(r)[3] REDESIGN AND ISSUANCE OF CIRCULATING QUARTER DOLLAR HONORING THE DISTRICT OF COLUMBIA AND EACH OF THE TERRITORIES.—

(1) REDESIGN IN 2009.—

(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2) and subject to paragraph (6)(B), quarter dollar coins issued during 2009, shall have designs on the reverse side selected in accordance with this subsection which are emblematic of the District of Columbia and the territories.

(B) FLEXIBILITY WITH REGARD TO PLACEMENT OF INSCRIPTIONS.—Notwithstanding subsection (d)(1), the Secretary may select a design for quarter dollars issued during 2009 in which—

(i) the inscription described in the second sentence of subsection (d)(1) appears on the reverse side of any such quarter dollars; and

(ii) any inscription described in the third sentence of subsection (d)(1) or the designation of the value of the coin appears on the obverse side of any such quarter dollars.

(2) SINGLE DISTRICT OR TERRITORY DESIGN.—The design on the reverse side of each quarter dollar issued during 2009 shall be emblematic of one of the following: The District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(3) SELECTION OF DESIGN.—

(A) IN GENERAL.—Each of the 6 designs required under this subsection for quarter dollars shall be—

(i) selected by the Secretary after consultation with—

(I) the chief executive of the District of Columbia or the territory being honored, or such other officials or group as the chief executive officer of the District of Columbia or the territory may designate for such purpose; and

(II) the Commission of Fine Arts; and

(ii) reviewed by the Citizens Coinage Advisory Committee.

(B) SELECTION AND APPROVAL PROCESS.—Designs for quarter dollars may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

(C) PARTICIPATION.—The Secretary may include participation by District or territorial officials, artists from the District of Columbia or the territory, engravers of the United States Mint, and members of the general public.

(D) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

(E) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, and no portrait of a living person may be included in the design of any quarter dollar under this subsection.

(4) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

(5) ISSUANCE.—

(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) in uncirculated and proof qualities as the Secretary determines to be appropriate.

(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

(C) TIMING AND ORDER OF ISSUANCE.—Coins minted under this subsection honoring the District of Columbia and each of the territories shall be issued in equal sequential intervals during 2009 in the following order: the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(6) OTHER PROVISIONS.—

(A) APPLICATION IN EVENT OF ADMISSION AS A STATE.—If the District of Columbia or any

territory becomes a State before the end of the 10-year period referred to in subsection (*l*)(1), subsection (*l*)(7) shall apply, and this subsection shall not apply, with respect to such State.

(B) APPLICATION IN EVENT OF INDEPENDENCE.—If any territory becomes independent or otherwise ceases to be a territory or possession of the United States before quarter dollars bearing designs which are emblematic of such territory are minted pursuant to this subsection, this subsection shall cease to apply with respect to such territory.

(7) TERRITORY DEFINED.—For purposes of this subsection, the term ''territory'' means the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(t)[4] REDESIGN AND ISSUANCE OF QUARTER DOLLARS EMBLEMATIC OF NATIONAL SITES IN EACH STATE, THE DISTRICT OF COLUMBIA, AND EACH TERRITORY.—

(1) REDESIGN BEGINNING UPON COMPLETION OF PRIOR PROGRAM.—

(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2), quarter dollars issued beginning in 2010 shall have designs on the reverse selected in accordance with this subsection which are emblematic of the national sites in the States, the District of Columbia and the territories of the United States.

(B) FLEXIBILITY WITH REGARD TO PLACEMENT OF INSCRIPTIONS.—Notwithstanding subsection (d)(1), the Secretary may select a design for quarter dollars referred to in subparagraph (A) in which—

(i) the inscription described in the second sentence of subsection (d)(1) appears on the reverse side of any such quarter dollars; and

(ii) any inscription described in the third sentence of subsection (d)(1) or the designation of the value of the coin appears on the obverse side of any such quarter dollars.

(C) INCLUSION OF DISTRICT OF COLUMBIA, AND TERRITORIES.—For purposes of this subsection, the term ''State'' has the same meaning as in section 3(a)(3) of the Federal Deposit Insurance Act.

(2) SINGLE SITE IN EACH STATE.—The design on the reverse side of each quarter dollar issued during the period of issuance under this subsection shall be emblematic of 1 national site in each State.

(3) SELECTION OF SITE AND DESIGN.—

(A) SITE.—

(i) IN GENERAL.—The selection of a national park or other national site in each State to be honored with a coin under this subsection shall be made by the Secretary of the Treasury, after consultation with the Secretary of the Interior and the governor or other chief executive of each State with respect to which a coin is to be issued under this subsection, and after giving full and thoughtful consideration to national sites that are not under the jurisdiction of the Secretary of the Interior so that the national site chosen for each State shall be the most appropriate in terms of natural or historic significance.

(ii) TIMING.—The selection process under clause (i) shall be completed before the end of the 270-day period beginning on the date of the enactment of the America's Beautiful National Parks Quarter Dollar Coin Act of 2008.

(B) DESIGN.—Each of the designs required under this subsection for quarter dollars shall be—

(i) selected by the Secretary after consultation with—

(I) the Secretary of the Interior; and

(II) the Commission of Fine Arts; and

(ii) reviewed by the Citizens Coinage Advisory Committee.

(C) SELECTION AND APPROVAL PROCESS.—Recommendations for site selections and designs for quarter dollars may be submitted in accordance with the site and design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

(D) PARTICIPATION IN DESIGN.—The Secretary may include participation by officials of the State, artists from the State, engravers of the United States Mint, and members of the general public.

(E) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

(F) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, no portrait of a living person, and no outline or map of a State may be included in the design on the reverse of any quarter dollar under this subsection.

(4) ISSUANCE OF COINS.—

(A) ORDER OF ISSUANCE.—The quarter dollar coins issued under this subsection bearing designs of national sites shall be issued in the order in which the sites selected under paragraph (3) were first established as a national site.

(B) RATE OF ISSUANCE.—The quarter dollar coins bearing designs of national sites under this subsection shall be issued at the rate of 5 new designs during each year of the period of issuance under this subsection.

(C) NUMBER OF EACH OF 5 COIN DESIGNS IN EACH YEAR.—Of the quarter dollar coins issued during each year of the period of issuance, the Secretary of the Treasury shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollars which shall be issued with each of the designs selected for such year.

[4] So in original. No subsec. (s) has been enacted.

(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

(6) ISSUANCE.—

(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (3) in uncirculated and proof qualities as the Secretary determines to be appropriate.

(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (3) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

(7) PERIOD OF ISSUANCE.—

(A) IN GENERAL.—Subject to paragraph (2), the program established under this subsection shall continue in effect until a national site in each State has been honored.

(B) SECOND ROUND AT DISCRETION OF SECRETARY.—

(i) DETERMINATION.—The Secretary may make a determination before the end of the 9-year period beginning when the first quarter dollar is issued under this subsection to continue the period of issuance until a second national site in each State, the District of Columbia, and each territory referred to in this subsection has been honored with a design on a quarter dollar.

(ii) NOTICE AND REPORT.—Within 30 days after making a determination under clause (i), the Secretary shall submit a written report on such determination to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(iii) APPLICABILITY OF PROVISIONS.—If the Secretary makes a determination under clause (i), the provisions of this subsection applicable to site and design selection and approval, the order, timing, and conditions of issuance shall apply in like manner as the initial issuance of quarter dollars under this subsection, except that the issuance of quarter dollars pursuant to such determination bearing the first design shall commence in order immediately following the last issuance of quarter dollars under the first round.

(iv) CONTINUATION UNTIL ALL STATES ARE HONORED.—If the Secretary makes a determination under clause (i), the program under this subsection shall continue until a second site in each State has been so honored.

(8) DESIGNS AFTER END OF PROGRAM.—Upon the completion of the coin program under this subsection, the design on—

(A) the obverse of the quarter dollar shall revert to the same design containing an image of President Washington in effect for the quarter dollar before the institution of the 50-State quarter dollar program; and

(B) notwithstanding the fourth sentence of subsection (d)(1), the reverse of the quarter dollar shall contain an image of General Washington crossing the Delaware River prior to the Battle of Trenton.

(9) NATIONAL SITE.—For purposes of this subsection, the term ''national site'' means any site under the supervision, management, or conservancy of the National Park Service, the United States Forest Service, the United States Fish and Wildlife Service, or any similar department or agency of the Federal Government, including any national park, national monument, national battlefield, national military park, national historical park, national historic site, national lakeshore, seashore, recreation area, parkway, scenic river, or trail and any site in the National Wildlife Refuge System.

(10) APPLICATION IN EVENT OF INDEPENDENCE.—If any territory becomes independent or otherwise ceases to be a territory or possession of the United States before quarter dollars bearing designs which are emblematic of such territory are minted pursuant to this subsection, this subsection shall cease to apply with respect to such territory.

(u) SILVER BULLION INVESTMENT PRODUCT.—

(1) IN GENERAL.—The Secretary shall strike and make available for sale such number of bullion coins as the Secretary determines to be appropriate that are exact duplicates of the quarter dollars issued under subsection (t), each of which shall—

(A) have a diameter of 3.0 inches and weigh 5.0 ounces;

(B) contain .999 fine silver;

(C) have incused into the edge the fineness and weight of the bullion coin;

(D) bear an inscription of the denomination of such coin, which shall be ''quarter dollar''; and

(E) not be minted or issued by the United States Mint as so-called ''fractional'' bullion coins or in any size other than the size described in paragraph (A).

(2) AVAILABILITY FOR SALE.—Bullion coins minted under paragraph (1)—

(A) shall become available for sale no sooner than the first day of the calendar year in which the circulating quarter dollar of which such bullion coin is a duplicate is issued; and

(B) may only be available for sale during the year in which such circulating quarter dollar is issued.

(3) DISTRIBUTION.—

(A) IN GENERAL.—In addition to the authorized dealers utilized by the Secretary in distributing bullion coins and solely for purposes of distributing bullion coins issued under this subsection, the Director of the National Park Service, or the designee of the Director, may purchase numismatic items issued under this subsection, but only in units of no fewer than 1,000 at a time, and the Director, or the Director's designee, may resell or repackage such numismatic items as the Director determines to be appropriate.

(B) RESALE.—The Director of the National Park Service, or the designee of the Direc-

tor, may resell, at cost and without repackaging, numismatic items acquired by the Director or such designee under subparagraph (A) to any party affiliated with any national site honored by a quarter dollar under subsection (t) for repackaging and resale by such party in the same manner and to the same extent as such party would be authorized to engage in such activities under subparagraph (A) if the party were acting as the designee of the Director under such subparagraph.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 981; Pub. L. 97–452, § 1(20), Jan. 12, 1983, 96 Stat. 2477; Pub. L. 99–61, title II, § 202, July 9, 1985, 99 Stat. 115; Pub. L. 99–185, § 2(a), (b), Dec. 17, 1985, 99 Stat. 1177; Pub. L. 100–274, §§ 4(a), 6, Mar. 31, 1988, 102 Stat. 50; Pub. L. 102–390, title II, §§ 226(a), 227, 228, Oct. 6, 1992, 106 Stat. 1630; Pub. L. 103–272, § 4(f)(1)(R), July 5, 1994, 108 Stat. 1362; Pub. L. 104–208, div. A, title I, § 101(f) [title V, §§ 523, 524, 529(a)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–347 to 3009–349; Pub. L. 105–124, §§ 3, 4(b)–(d), Dec. 1, 1997, 111 Stat. 2534, 2536; Pub. L. 105–176, May 29, 1998, 112 Stat. 104; Pub. L. 106–445, § 2(b), Nov. 6, 2000, 114 Stat. 1931; Pub. L. 108–15, title I, §§ 102, 103(d)(1), Apr. 23, 2003, 117 Stat. 615, 619; Pub. L. 109–145, title I, §§ 102–104, title II, § 201, Dec. 22, 2005, 119 Stat. 2665–2669, 2672; Pub. L. 110–82, §§ 2, 3, Sept. 20, 2007, 121 Stat. 777, 779; Pub. L. 110–147, Dec. 21, 2007, 121 Stat. 1817; Pub. L. 110–161, div. D, title VI, §§ 622–623(b), Dec. 26, 2007, 121 Stat. 2016, 2018; Pub. L. 110–456, title I, § 102, title II, § 201, Dec. 23, 2008, 122 Stat. 5039, 5042.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5112(a) ..... | 31:317(a)(1st, last sentences). | R.S. § 3515(a); Sept. 26, 1890, ch. 945, § 1, 26 Stat. 485; Sept. 5, 1962, Pub. L. 87–643, § 1, 76 Stat. 440; Oct. 11, 1974, Pub. L. 93–441, § 1, 88 Stat. 1261. |
| | 31:391(c). | July 23, 1965, Pub. L. 89–81, § 101(c), 79 Stat. 255; restated Dec. 31, 1970, Pub. L. 91–607, § 201, 84 Stat. 1768; Oct. 10, 1978, Pub. L. 95–447, § 2, 92 Stat. 1072. |
| 5112(b) ..... | 31:317(a)(2d, 3d sentences). | |
| | 31:346. | R.S. § 3533; June 14, 1947, ch. 104, § 1, 61 Stat. 132. |
| | 31:391(b). | July 23, 1965, Pub. L. 89–81, § 101(b), (d), 79 Stat. 254; restated Dec. 31, 1970, Pub. L. 91–607, § 201, 84 Stat. 1768. |
| | 31:398(1)–(4), (6). | July 23, 1965, Pub. L. 89–81, § 108(1)–(4), (6), 79 Stat. 255. |
| 5112(c) ..... | 31:317(b). | R.S. § 3515(b); added Oct. 11, 1974, Pub. L. 93–441, § 1, 88 Stat. 1261. |
| 5112(d)(1) | 31:324. | R.S. § 3517; Mar. 3, 1887, ch. 396, § 3, 24 Stat. 635; Sept. 26, 1890, ch. 945, § 1, 26 Stat. 485; May 18, 1908, ch. 173, 35 Stat. 164; restated July 23, 1965, Pub. L. 89–81, § 204(a), 79 Stat. 256; Dec. 31, 1970, Pub. L. 91–607, § 206, 84 Stat. 1769. |
| | 31:324b–1. | Oct. 10, 1978, Pub. L. 95–447, § 3, 92 Stat. 1072. |
| 5112(d)(2) | 31:276. | R.S. § 3510; restated Sept. 26, 1890, ch. 944, 26 Stat. 484. |
| 5112(e) ..... | 31:324b. | Dec. 31, 1970, Pub. L. 91–607, § 203, 84 Stat. 1769; Oct. 10, 1978, Pub. L. 95–447, § 4, 92 Stat. 1072. |
| | 31:324c. | Dec. 31, 1970, Pub. L. 91–607, § 209, 84 Stat. 1769. |
| | 31:391(d). | |
| | 31:398(3), (4). | |
| 5112(f) ..... | 31:321. | R.S. § 3514; Jan. 30, 1934, ch. 6, § 5, 48 Stat. 340. |

HISTORICAL AND REVISION NOTES—CONTINUED
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 31:399. | July 23, 1965, Pub. L. 89–81, 79 Stat. 254, § 109; added Dec. 23, 1981, Pub. L. 97–104, § 2, 95 Stat. 1491. |

In subsection (a), the words before clause (1) are added because of the restatement. In clause (5), the words ''that is 0.835 inch in diameter'' are added because the Secretary of the Treasury has prescribed the diameter and the diameter of a coin may not be changed under 31:276. The words ''5 grams'' are substituted for ''seventy-seven and sixteen-hundredths grains troy'' for consistency in the revised chapter. In clause (6), the words ''that is 0.75 inch in diameter'' are added because the Secretary has prescribed the diameter and the diameter of a coin may not be changed under 31:276. The words ''except as provided under subsection (c) of this section'' are added for clarity and because of the restatement. The words ''3.11 grams'' are substituted for ''forty-eight grains'' for consistency in the revised chapter.

In subsection (b), the words ''In minting 5-cent coins'' are substituted for ''in minor-coinage alloys'' in 31:346 because 5-cent coins are the minor coins composed of nickel. The words ''Secretary shall use'' are substituted for ''shall be used'' because of the source provisions restated in section 321 of the revised title. The word ''bars'' is substituted for ''ingots'' for consistency in the revised chapter. The words ''2.5 percent'' are substituted for ''twenty-five thousandths'' for consistency in the revised title and with other titles of the United States Code. The words ''from the percent of nickel required'' are substituted for ''the legal standard . . . in the proportion of nickel'' because of the restatement. The words ''In silver ingots, six-thousandths'' are omitted as superseded by the source provisions restated in the section. The words ''In gold ingots, one-thousandth'' in section 3533 of the Revised Statutes are omitted because gold coinage was discontinued by 31:315b. The words ''Except as provided in subsection (c) of this section'' are added for clarity and because of the restatement.

In subsection (c), the words ''a different weight and alloy of copper and zinc'' are substituted for ''such action'' for clarity.

In subsection (d)(1), the words ''an impression emblematic of liberty'' in 31:324 are omitted as obsolete. The words ''The design on the reverse side of the dollar, half dollar, and quarter dollar is an eagle'' are substituted for ''and upon the reverse side shall be the figure or representation of an eagle . . . but on the dime, 5-, and 1-cent piece, the figure of the eagle shall be omitted'', and the words ''The emblem on the obverse side of the dollar is'' are substituted for ''The one-dollar coin authorized by section 391(c) of this title shall bear on the obverse side'' in 31:324b–1, to eliminate unnecessary words. The words ''Any coins minted after July 23, 1965, from 900 fine coin silver shall be inscribed with the year 1964'' in 31:324 are omitted because the Secretary no longer has authority to mint coins from 900 fine coin silver.

In subsection (d)(2), the word ''Secretary'' is substituted for ''engraver'', ''Director of the Mint'', and ''Director of the Mint . . . with the approval of the Secretary of the Treasury'' because of the source provisions restated in section 321(c) of the revised title. The word ''dies'' is substituted for ''from the original dies already authorized all the working dies required for use in the coinage of the several mints'' and ''original dies'' to eliminate unnecessary words. The word ''inscription'' is substituted for ''legend'' for consistency in the section. The words ''*Provided*, That no change be made in the diameter of any coin'' are omitted as unnecessary because the diameters are prescribed by subsection (a) of the revised section. The words ''procure

services under section 3109 of title 5 in carrying out this paragraph'' are substituted for ''engage temporarily for this purpose the services of one or more artists, distinguished in their respective departments of art'' to eliminate unnecessary words. The words ''who shall be paid for such service from the contingent appropriation for the mint at Philadelphia'' are omitted as obsolete. The text of section 3510(2d proviso) of the Revised Statutes is omitted as executed.

In subsection (e)(2), the words ''80 percent'' are substituted for ''eight hundred parts'' in 31:391(d), and the words ''20 percent'' are substituted for ''two hundred parts'', for consistency in the revised title and with other titles of the Code. The words ''that are metallurgically bonded to'' are added for clarity and consistency with subsection (b). In clause (4), the words ''the late President of the United States'' in 31:324b are omitted as unnecessary. Clause (6) is added because 31:324 applies to coins minted under this subsection.

In subsection (f)(1), before clause (A), the words ''Notwithstanding this section and section 5111(a)(1) of this title are substituted for ''Notwithstanding any other provision of law'' in 31:399 for clarity. In clause (B), the words ''are an alloy of 90 percent silver and 10 percent copper'' are substituted for ''be minted in accordance with the standard established in section 3514 of the Revised Statutes (31 U.S.C. 321)'' and 31:321 to eliminate unnecessary words and for clarity. In clause (C), the word ''symbolizing'' is substituted for ''emblematic'' for clarity.

In subsection (f)(2), the words ''under such regulations as he may prescribe'' are omitted as unnecessary because of section 321 of the revised title. The word ''Treasury'' is substituted for ''general fund of the Treasury'' to eliminate unnecessary words.

The text of 31:399(b)(3) is omitted as unnecessary because of section 5103 of the revised title.

1983 ACT

This amends 31:5112(f)(1) to make technical and conforming changes.

REFERENCES IN TEXT

The date of enactment of the United States $1 Coin Act of 1997, referred to in subsec. (b), is the date of enactment of Pub. L. 105–124, which was approved Dec. 1, 1997.

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (*l*)(6)(C), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

This Act, referred to in subsec. (*o*)(6), probably means Pub. L. 109–145, Dec. 22, 2005, 119 Stat. 2664, known as the Presidential $1 Coin Act of 2005, which amended this section and enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 5101 of this title and Tables.

The date of enactment of the Presidential $1 Coin Act of 2005, referred to in subsec. (q)(1), is the date of enactment of Pub. L. 109–145, which was approved Dec. 22, 2005.

The date of the enactment of the Native American $1 Coin Act, referred to in subsec. (r)(1)(B), is the date of enactment of Pub. L. 110–82, which was approved Sept. 20, 2007.

Section 3 of the Federal Deposit Insurance Act, referred to in subsec. (t)(1)(C), is classified to section 1813 of Title 12, Banks and Banking.

The date of the enactment of the America's Beautiful National Parks Quarter Dollar Coin Act of 2008, referred to in subsec. (t)(3)(A)(ii), is the date of enactment of Pub. L. 110–456, which was approved Dec. 23, 2008.

AMENDMENTS

2008—Subsec. (t). Pub. L. 110–456, § 102, added subsec. (t).

Subsec. (u). Pub. L. 110–456, § 201, added subsec. (u).

2007—Subsec. (n)(1). Pub. L. 110–82, § 3, redesignated cls. (i) and (ii) of subpar. (A) as subpars. (A) and (B), respectively, struck out heading and designation of former subpar. (A), and struck out former subpar. (B), which related to continuity provisions concerning the ''‘Sacagawea-design’ $1 coins''.

Subsec. (n)(2)(C)(i). Pub. L. 110–161, § 623(a)(1)(A), substituted ''and the inscription'' for ''and the inscriptions'' and struck out ''and ‘In God We Trust’'' before ''shall be edge-incused''.

Subsec. (n)(2)(F). Pub. L. 110–161, § 623(a)(2), added subpar. (F).

Subsec. (p)(1)(A). Pub. L. 110–147 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''any business operations conducted by any such agency, instrumentality, system, or entity that involve coins or currency will be fully capable of accepting and dispensing $1 coins in connection with such operations; and''.

Subsec. (r). Pub. L. 110–161, § 622, added subsec. (r) relating to the redesign and issuance of circulating quarter dollar honoring the District of Columbia and territories.

Pub. L. 110–82, § 2, added subsec. (r) relating to the redesign and issuance of circulating $1 coins honoring Native Americans.

Subsec. (r)(2). Pub. L. 110–161, § 623(b), substituted ''and the inscription'' for ''and the inscriptions'' and struck out ''and ‘In God We Trust’'' before ''shall be edge-incused'' in subpar. (C)(i), and added subpar (E).

2005—Subsec. (a)(11). Pub. L. 109–145, § 201(1), added par. (11).

Subsec. (n). Pub. L. 109–145, § 102, added subsec. (n).

Subsec. (*o*). Pub. L. 109–145, § 103, added subsec. (*o*).

Subsec. (p). Pub. L. 109–145, § 104, added subsec. (p).

Subsec. (q). Pub. L. 109–145, § 201(2), added subsec. (q).

2003—Subsec. (d)(1). Pub. L. 108–15, § 102(a), inserted after fourth sentence ''Subject to other provisions of this subsection, the obverse of any 5-cent coin issued after December 31, 2005, shall bear the likeness of Thomas Jefferson and the reverse of any such 5-cent coin shall bear an image of the home of Thomas Jefferson at Monticello.''

Subsec. (d)(2). Pub. L. 108–15, § 102(b), inserted '', after consulting with the Citizens Coinage Advisory Committee and the Commission of Fine Arts,'' after ''The Secretary may'' in second sentence.

Subsec. (*l*)(4)(A)(ii). Pub. L. 108–15, § 103(d)(1), substituted ''Citizens Coinage Advisory Committee'' for ''Citizens Commemorative Coin Advisory Committee''.

2000—Subsec. (k). Pub. L. 106–445 substituted ''platinum bullion coins'' for ''bullion''.

1998—Subsec. (*l*)(1)(C). Pub. L. 105–176 added subpar. (C).

1997—Subsec. (a)(1). Pub. L. 105–124, § 4(b), struck out ''and weighs 8.1 grams'' after ''diameter''.

Subsec. (b). Pub. L. 105–124, § 4(c), struck out ''dollar,'' before ''half dollar'' in first sentence and inserted after fourth sentence ''The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernible, be minted and fabricated in the United States, and have similar metallic, anti-counterfeiting properties as United States coinage in circulation on the date of enactment of the United States $1 Coin Act of 1997.''

Subsec. (d)(1). Pub. L. 105–124, § 4(d), substituted ''The Secretary of the Treasury, in consultation with the Congress, shall select appropriate designs for the obverse and reverse sides of the dollar coin.'' for ''The eagle on the reverse side of the dollar is the symbolic eagle of Apollo 11 landing on the moon. The obverse side of the dollar has the likeness of Susan B. Anthony.''

Subsec. (*l*). Pub. L. 105–124, § 3, added subsec. (*l*).

1996—Subsec. (i)(4)(C). Pub. L. 104–208, § 101(f) [title V, § 523], added subpar. (C).

Subsec. (k). Pub. L. 104–208, § 101(f) [title V, § 524], added subsec. (k).

Subsec. (m). Pub. L. 104–208, §101(f) [title V, §529(a)], added subsec. (m).

1994—Subsec. (h). Pub. L. 103–272 substituted ''section 5103 of this title'' for ''section 5103 of title 31, United States Code''.

1992—Subsec. (d)(1). Pub. L. 102–390, §226(a), inserted ''shall'' before ''have'' in first sentence and substituted ''coin shall have'' for ''coin has'' in second and third sentences.

Subsec. (i)(4). Pub. L. 102–390, §228, added par. (4).

Subsec. (j). Pub. L. 102–390, §227, added subsec. (j).

1988—Subsec. (b). Pub. L. 100–274, §4(a), inserted before last sentence ''In minting gold coins, the Secretary shall use alloys that vary not more than 0.1 percent from the percent of gold required.''

Subsec. (f). Pub. L. 100–274, §6, inserted heading and amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The Secretary shall sell the coins minted under subsection (e) to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dyes, use of machinery, and overhead expenses).''

1985—Subsec. (a)(7) to (10). Pub. L. 99–185, §2(a), added pars. (7) to (10).

Subsec. (e). Pub. L. 99–61 added subsec. (e). Former subsec. (e), providing for the minting of 150,000,000 silver and copper alloy dollar coins bearing the likeness of Dwight David Eisenhower, was struck out.

Subsec. (f). Pub. L. 99–61 added subsec. (f). Former subsec. (f), providing for the minting of up to 10,000,000 silver and copper alloy half-dollar coins symbolizing the 250th anniversary of the birth of George Washington, was struck out.

Subsecs. (g), (h). Pub. L. 99–61 added subsecs. (g) and (h).

Subsec. (i). Pub. L. 99–185, §2(b), added subsec. (i).

1983—Subsec. (f)(1). Pub. L. 97–452, §1(20)(A), inserted a comma after ''10,000,000)'' in introductory text.

Subsec. (f)(1)(C). Pub. L. 97–452, §1(20)(B), substituted ''250th'' for ''two hundred and fiftieth''.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–161, div. D, title VI, §623(c), Dec. 26, 2007, 121 Stat. 2018, provided that: ''The change required by the amendments made by subsections (a) and (b) [amending this section] shall be put into effect by the Secretary of the Treasury as soon as is practicable after the date of enactment of this Act [Dec. 26, 2007].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(f) [title V, §529(e)] of Pub. L. 104–208, provided that: ''This section [amending this section and sections 5134 and 5135 of this title, enacting provisions set out as a note under section 5134 of this title, and amending provisions set out as a note under this section] and the amendments made by this section shall take effect on the date of enactment of this Act [Sept. 30, 1996].''

EFFECTIVE DATE OF 1985 AMENDMENTS

Section 3 of Pub. L. 99–185 provided that: ''This Act [amending this section and sections 5116, 5118, and 5132 of this title and enacting provisions set out as notes under this section] shall take effect on October 1, 1985, except that no coins may be issued or sold under section 5112(i) of title 31, United States Code, before October 1, 1986.''

Section 205 of title II of Pub. L. 99–61 provided that: ''This title [amending this section and sections 5116 and 5132 of this title and enacting provisions set out as a note under this section] shall take effect on October 1, 1985, except that no coins may be issued or sold under subsection (e) of section 5112 of title 31, United States Code, before September 1, 1986, or before the date on which all coins minted under title I of this Act [set out as a note below] have been sold, whichever is earlier.''

SHORT TITLE OF 1985 AMENDMENTS

Section 1 of Pub. L. 99–185 provided that: ''This Act [amending this section and sections 5116, 5118, and 5132 of this title and enacting provisions set out as notes under this section] may be cited as the 'Gold Bullion Coin Act of 1985'.''

Section 201 of title II of Pub. L. 99–61 provided that: ''This title [amending this section and sections 5116 and 5132 of this title and enacting provisions set out as a note under this section] may be cited as the 'Liberty Coin Act'.''

SAVINGS PROVISION

Pub. L. 110–192, Feb. 29, 2008, 122 Stat. 648, provided: ''That clause (i) of section 5112(n)(1)(B) of title 31, United States Code (as in effect on the day before the date of the enactment of Public Law 110–82 [Sept. 20, 2007]) shall continue in effect, notwithstanding the amendment made by section 3 of Public Law 110–82 [amending this section], until the effective date of the amendment made by section 2 of such Public Law [amending this section].''

FINDINGS OF 2008 AMENDMENT

Pub. L. 110–456, title I, §101, Dec. 23, 2008, 122 Stat. 5038, provided that: ''The Congress finds as follows:

''(1) Yellowstone National Park was established by an Act signed by President Ulysses S. Grant on March 1, 1872, as the Nation's first national park.

''(2) The summer and autumn of 1890 saw the establishment of a number of national sites:

''(A) August 19: Chickamauga and Chattanooga established as national military parks in Georgia and Tennessee.

''(B) August 30: Antietam established as a national battlefield site in Maryland.

''(C) September 25: Sequoia National Park established in California.

''(D) September 27: Rock Creek Park established in the District of Columbia.

''(E) October 1: General Grant National Park established in California (and subsequently incorporated in Kings Canyon National Park).

''(F) October 1: Yosemite National Park established in California.

''(3) Theodore Roosevelt was this nation's 26th President and is considered by many to be our 'Conservationist President'.

''(4) As a frequent visitor to the West, Theodore Roosevelt witnessed the virtual destruction of some big game species and the overgrazing that destroyed the grasslands and with them the habitats for small mammals and songbirds and conservation increasingly became one of his major concerns.

''(5) When he became President in 1901, Roosevelt pursued this interest in conservation by establishing the first 51 Bird Reserves, 4 Game Preserves, and 150 National Forests.

''(6) He also established the United States Forest Service, signed into law the creation of 5 National Parks, and signed the Act for the Preservation of American Antiquities in 1906 under which he proclaimed 18 national monuments.

''(7) Approximately 230,000,000 acres of area within the United States was placed under public protection by Theodore Roosevelt.

''(8) Theodore Roosevelt said that nothing short of defending this country in wartime 'compares in importance with the great central task of leaving this land even a better land for our descendants than it is for us'.

''(9) The National Park Service was created by an Act signed by President Woodrow Wilson on August 25, 1916.

''(10) The National Park System comprises 391 areas covering more than 84,000,000 acres in every State (except Delaware), the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

''(11) The sites or areas within the National Park System vary widely in size and type from vast natural wilderness to birthplaces of Presidents to world heritage archaeology sites to an African burial

ground memorial in Manhattan and include national parks, monuments, battlefields, military parks, historical parks, historic sites, lakeshores, seashores, recreation areas, scenic rivers and trails, and the White House.

''(12) In addition to the sites within the National Park System, the United States has placed numerous other types of sites under various forms of conservancy, such as the national forests and sites within the National Wildlife Refuge System and on the National Register of Historic Places.''

REMOVAL OF BARRIERS TO CIRCULATION OF $1 COIN

Pub. L. 110–82, § 4, Sept. 20, 2007, 121 Stat. 779, provided that:

''(a) IN GENERAL.—In order to remove barriers to circulation, the Secretary of the Treasury shall carry out an aggressive, cost-effective, continuing campaign to encourage commercial enterprises to accept and dispense $1 coins that have as designs on the obverse the so-called 'Sacagawea design'.

''(b) REPORT.—The Secretary of the Treasury shall submit to Congress an annual report on the success of the efforts described in subsection (a).''

5-CENT COINS MINTED IN 2004 AND 2005

Pub. L. 109–230, § 8, June 15, 2006, 120 Stat. 393, provided that: ''Notwithstanding the fifth sentence of section 5112(d)(1) of title 31, United States Code, the Secretary of the Treasury may continue to issue, after December 31, 2005, numismatic items that contain 5-cent coins minted in the years 2004 and 2005.''

PRESIDENTIAL COMMEMORATIVE DOLLAR COINS; FINDINGS

Pub. L. 109–145, title I, § 101, Dec. 22, 2005, 119 Stat. 2664, provided that: ''Congress finds the following:

''(1) There are sectors of the United States economy, including public transportation, parking meters, vending machines, and low-dollar value transactions, in which the use of a $1 coin is both useful and desirable for keeping costs and prices down.

''(2) For a variety of reasons, the new $1 coin introduced in 2000 has not been widely sought-after by the public, leading to higher costs for merchants and thus higher prices for consumers.

''(3) The success of the 50 States Commemorative Coin Program (31 U.S.C. 5112(*l*)) for circulating quarter dollars shows that a design on a United States circulating coin that is regularly changed in a manner similar to the systematic change in designs in such Program radically increases demand for the coin, rapidly pulling it through the economy.

''(4) The 50 States Commemorative Coin Program also has been an educational tool, teaching both Americans and visitors something about each State for which a quarter has been issued.

''(5) A national survey and study by the Government Accountability Office has indicated that many Americans who do not seek, or who reject, the new $1 coin for use in commerce would actively seek the coin if an attractive, educational rotating design were to be struck on the coin.

''(6) The President is the leader of our tripartite government and the President's spouse has often set the social tone for the White House while spearheading and highlighting important issues for the country.

''(7) Sacagawea, as currently represented on the new $1 coin, is an important symbol of American history.

''(8) Many people cannot name all of the Presidents, and fewer can name the spouses, nor can many people accurately place each President in the proper time period of American history.

''(9) First Spouses have not generally been recognized on American coinage.

''(10) In order to revitalize the design of United States coinage and return circulating coinage to its position as not only a necessary means of exchange in commerce, but also as an object of aesthetic beauty in its own right, it is appropriate to move many of the mottos and emblems, the inscription of the year, and the so-called 'mint marks' that currently appear on the 2 faces of each circulating coin to the edge of the coin, which would allow larger and more dramatic artwork on the coins reminiscent of the so-called 'Golden Age of Coinage' in the United States, at the beginning of the Twentieth Century, initiated by President Theodore Roosevelt, with the assistance of noted sculptors and medallic artists James Earle Fraser and Augustus Saint-Gaudens.

''(11) Placing inscriptions on the edge of coins, known as edge-incusing, is a hallmark of modern coinage and is common in large-volume production of coinage elsewhere in the world, such as the 2,700,000,000 2-Euro coins in circulation, but it has not been done on a large scale in United States coinage in recent years.

''(12) Although the Congress has authorized the Secretary of the Treasury to issue gold coins with a purity of 99.99 percent, the Secretary has not done so.

''(13) Bullion coins are a valuable tool for the investor and, in some cases, an important aspect of coin collecting.''

ABRAHAM LINCOLN BICENTENNIAL 1-CENT COIN REDESIGN

Pub. L. 109–145, title III, Dec. 22, 2005, 119 Stat. 2673, provided that:

''SEC. 301. FINDINGS.

''Congress finds the following:

''(1) Abraham Lincoln, the 16th President, was one of the Nation's greatest leaders, demonstrating true courage during the Civil War, one of the greatest crises in the Nation's history.

''(2) Born of humble roots in Hardin County (present-day LaRue County), Kentucky, on February 12, 1809, Abraham Lincoln rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

''(3) With the belief that all men are created equal, Abraham Lincoln led the effort to free all slaves in the United States.

''(4) Abraham Lincoln had a generous heart, with malice toward none, and with charity for all.

''(5) Abraham Lincoln gave the ultimate sacrifice for the country he loved, dying from an assassin's bullet on April 15, 1865.

''(6) All Americans could benefit from studying the life of Abraham Lincoln, for Lincoln's life is a model for accomplishing the 'American dream' through honesty, integrity, loyalty, and a lifetime of education.

''(7) The year 2009 will be the bicentennial anniversary of the birth of Abraham Lincoln.

''(8) Abraham Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the nation in Washington, D.C.

''(9) The so-called 'Lincoln cent' was introduced in 1909 on the 100th anniversary of Lincoln's birth, making the obverse design the most enduring on the nation's coinage.

''(10) President Theodore Roosevelt was so impressed by the talent of Victor David Brenner that the sculptor was chosen to design the likeness of President Lincoln for the coin, adapting a design from a plaque Brenner had prepared earlier.

''(11) In the nearly 100 years of production of the 'Lincoln cent', there have been only 2 designs on the reverse: the original, featuring 2 wheat-heads in memorial style enclosing mottoes, and the current representation of the Lincoln Memorial in Washington, D.C.

''(12) On the occasion of the bicentennial of President Lincoln's birth and the 100th anniversary of the production of the Lincoln cent, it is entirely fitting to issue a series of 1-cent coins with designs on the reverse that are emblematic of the 4 major periods of President Lincoln's life.

''SEC. 302. REDESIGN OF LINCOLN CENT FOR 2009.

''(a) IN GENERAL.—During the year 2009, the Secretary of the Treasury shall issue 1-cent coins in accordance with the following design specifications:

''(1) OBVERSE.—The obverse of the 1-cent coin shall continue to bear the Victor David Brenner likeness of President Abraham Lincoln.

''(2) REVERSE.—The reverse of the coins shall bear 4 different designs each representing a different aspect of the life of Abraham Lincoln, such as—

''(A) his birth and early childhood in Kentucky;

''(B) his formative years in Indiana;

''(C) his professional life in Illinois; and

''(D) his presidency, in Washington, D.C.

''(b) ISSUANCE OF REDESIGNED LINCOLN CENTS IN 2009.—

''(1) ORDER.—The 1-cent coins to which this section applies shall be issued with 1 of the 4 designs referred to in subsection (a)(2) beginning at the start of each calendar quarter of 2009.

''(2) NUMBER.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of 1-cent coins that shall be issued with each of the designs selected for each calendar quarter of 2009.

''(c) DESIGN SELECTION.—The designs for the coins specified in this section shall be chosen by the Secretary—

''(1) after consultation with the Abraham Lincoln Bicentennial Commission and the Commission of Fine Arts; and

''(2) after review by the Citizens Coinage Advisory Committee.

''SEC. 303. REDESIGN OF REVERSE OF 1-CENT COINS AFTER 2009.

''The design on the reverse of the 1-cent coins issued after December 31, 2009, shall bear an image emblematic of President Lincoln's preservation of the United States of America as a single and united country.

''SEC. 304. NUMISMATIC PENNIES WITH THE SAME METALLIC CONTENT AS THE 1909 PENNY.

''The Secretary of the Treasury shall issue 1-cent coins in 2009 with the exact metallic content as the 1-cent coin contained in 1909 in such number as the Secretary determines to be appropriate for numismatic purposes.

''SEC. 305. SENSE OF THE CONGRESS.

''It is the sense of the Congress that the original Victor David Brenner design for the 1-cent coin was a dramatic departure from previous American coinage that should be reproduced, using the original form and relief of the likeness of Abraham Lincoln, on the 1-cent coins issued in 2009.''

DESIGNS ON THE 5-CENT COIN

Pub. L. 108–15, title I, §101, Apr. 23, 2003, 117 Stat. 615, provided that:

''(a) IN GENERAL.—Subject to subsection (b) and after consulting with the Citizens Coinage Advisory Committee and the Commission of Fine Arts, the Secretary of the Treasury may change the design on the obverse and the reverse of the 5-cent coin for coins issued in 2003, 2004, and 2005 in recognition of the bicentennial of the Louisiana Purchase and the expedition of Meriwether Lewis and William Clark.

''(b) DESIGN SPECIFICATIONS.—

''(1) OBVERSE.—If the Secretary of the Treasury elects to change the obverse of 5-cent coins issued during 2003, 2004, and 2005, the design shall depict a likeness of President Thomas Jefferson, different from the likeness that appeared on the obverse of the 5-cent coins issued during 2002, in recognition of his role with respect to the Louisiana Purchase and the commissioning of the Lewis and Clark expedition.

''(2) REVERSE.—If the Secretary of the Treasury elects to change the reverse of the 5-cent coins issued during 2003, 2004, and 2005, the design selected shall depict images that are emblematic of the Louisiana Purchase or the expedition of Meriwether Lewis and William Clark.

''(3) OTHER INSCRIPTIONS.—5-cent coins issued during 2003, 2004, and 2005 shall continue to meet all other requirements for inscriptions and designations applicable to circulating coins under section 5112(d)(1) of title 31, United States Code.''

STUDY AND REPORT OF IMPACT ON UNITED STATES SILVER MARKET OF THE AMERICAN EAGLE SILVER BULLION PROGRAM

Pub. L. 107–201, §3(b), July 23, 2002, 116 Stat. 737, provided that:

''(1) STUDY.—The Secretary of the Treasury shall conduct a study of the impact on the United States silver market of the American Eagle Silver Bullion Program, established under section 5112(e) of title 31, United States Code.

''(2) REPORT.—Not later than 1 year after the date of enactment of this Act [July 23, 2002], the Secretary of the Treasury shall submit a report of the study conducted under paragraph (1) to the chairman and ranking minority member of—

''(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(B) the Committee on Financial Services of the House of Representatives.''

FINDINGS OF 1997 AMENDMENT

Pub. L. 105–124, §2, Dec. 1, 1997, 111 Stat. 2534, provided that: ''The Congress finds that—

''(1) it is appropriate and timely—

''(A) to honor the unique Federal republic of 50 States that comprise the United States; and

''(B) to promote the diffusion of knowledge among the youth of the United States about the individual States, their history and geography, and the rich diversity of the national heritage;

''(2) the circulating coinage of the United States has not been modernized during the 25-year period preceding the date of enactment of this Act [Dec. 1, 1997];

''(3) a circulating commemorative 25-cent coin program could produce earnings of $110,000,000 from the sale of silver proof coins and sets over the 10-year period of issuance, and would produce indirect earnings of an estimated $2,600,000,000 to $5,100,000,000 to the United States Treasury, money that will replace borrowing to fund the national debt to at least that extent; and

''(4) it is appropriate to launch a commemorative circulating coin program that encourages young people and their families to collect memorable tokens of all of the States for the face value of the coins.''

DOLLAR COINS

Pub. L. 105–124, §4(e), (f), Dec. 1, 1997, 111 Stat. 2536, 2537, provided that:

''(e) PRODUCTION OF NEW DOLLAR COINS.—

''(1) IN GENERAL.—Upon the depletion of the Government's supply (as of the date of enactment of this Act [Dec. 1, 1997]) of $1 coins bearing the likeness of Susan B. Anthony, the Secretary of the Treasury shall place into circulation $1 coins that comply with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by this section.

''(2) AUTHORITY OF SECRETARY TO CONTINUE PRODUCTION.—If the supply of $1 coins bearing the likeness of Susan B. Anthony is depleted before production has begun of $1 coins which bear a design which complies with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by this section, the Secretary of the Treasury may continue to mint and issue $1 coins bearing the likeness of Susan B. Anthony in accordance with that section 5112 (as in effect on the day before the date of enactment of this Act) until such time as production begins.

''(3) NUMISMATIC SETS.—The Secretary may include such $1 coins in any numismatic set produced by the United States Mint before the date on which the $1 coins authorized by this section are placed in circulation.

''(f) MARKETING PROGRAM.—

''(1) IN GENERAL.—Before placing into circulation $1 coins authorized under this section [amending this section and enacting provisions set out as a note under section 5101 of this title], the Secretary of the Treasury shall adopt a program to promote the use of such coins by commercial enterprises, mass transit authorities, and Federal, State, and local government agencies.

''(2) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study on the progress of the marketing program adopted in accordance with paragraph (1).

''(3) REPORT.—Not later than March 31, 2001, the Secretary of the Treasury shall submit a report to the Congress on the results of the study conducted pursuant to paragraph (2).''

RULE OF CONSTRUCTION

Pub. L. 105–124, § 5, Dec. 1, 1997, 111 Stat. 2537, provided that: ''Nothing in this Act [see Short Title of 1997 Amendment note set out under section 5101 of this title] or the amendments made by this Act shall be construed to evidence any intention to eliminate or to limit the printing or circulation of United States currency in the $1 denomination.''

STUDY AND REPORT TO CONGRESS OF 50 STATES COMMEMORATIVE COIN PROGRAM

Pub. L. 104–329, title III, § 302, Oct. 20, 1996, 110 Stat. 4012, provided that:

''(a) STUDY.—The Secretary of the Treasury shall by June 1, 1997 complete a study of the feasibility of a circulating commemorative coin program to commemorate each of the 50 States. The study shall assess likely public acceptance of and consumer demand for different coins that might be issued in connection with such a program (taking into consideration the pace of issuance of coins and the length of such a program), a comparison of the costs of producing coins issued under the program and the revenue that the program would generate, the impact on coin distribution systems, the advantages and disadvantages of different approaches to selecting designs for coins in such a program, and such other factors as the Secretary considers appropriate in deciding upon the feasibility of such a program. No steps taken in order to gather information for this study shall be considered a collection of information within the meaning of section 3502 of title 44, United States Code.

''(b) REPORT.—The Secretary shall submit the study required in subsection (a) above, to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate, simultaneously on its receipt by the Secretary.

''(c) 50-STATE COMMEMORATIVE COIN PROGRAM.—The Secretary shall determine by August 1, 1997 whether the results of the study authorized by subsection (a) justify such a program. If the Secretary determines that such a program is justified, then he shall by January 1, 1999, notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2) of section 5112, title 31, United States Code, commence a commemorative coin program consisting of the minting and issuance of quarter dollar coins bearing designs, selected in accordance with paragraph (4) of this subsection, which are emblematic of the 50 States. If the Secretary determines that such a commemorative coin program is justified but that it is not practicable to commence the program by January 1, 1999, then he shall notify the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of such impracticability and of the date on which the program will commence.

''(1) DESIGN.—The design for each quarter dollar issued under the program shall be emblematic of 1 of the 50 States. The designs for quarter dollar coins issued during each year of the program shall be emblematic of States which have not previously been commemorated under the program.

''(2) ORDER OF ISSUANCE.—Each State will be honored by a coin in the order of that State's admission to the United States.

''(3) NUMBER OF COINS.—Of the quarter dollar coins issued during each year of the program, the Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollar coins which shall be issued with each of the designs selected for such year.

''(4) SELECTION OF DESIGN.—Each of the 50 designs required for quarter dollars issued under the program shall be—

''(A) selected pursuant to a process, decided upon by the Secretary, on the basis of the study conducted pursuant to subsection (a), which process shall involve, among other things, consultation with appropriate officials of the State being commemorated with such design; and

''(B) reviewed by the Citizens Commemorative Coin Advisory Committee and the Commission of Fine Arts.

''(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

''(6) NUMISMATIC ITEMS.—

''(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) of this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

''(B) SILVER COINS.—Notwithstanding the provisions of subsection 5112(b) of title 31, United States Code, the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) of this subsection as the Secretary determines to be appropriate with a content of 90 percent silver and 10 percent copper.

''(C) SOURCES OF BULLION.—The Secretary may obtain silver for minting coins under paragraph (6)(B) from stockpiles established under the Strategic and Critical Materials Stock Piling Act [50 U.S.C. 98 et seq.].

''(d) FUNDING.—Funds used to complete this study shall be offset from funds from the Department of the Treasury.''

DEPOSIT OF PROFITS FROM SALE OF GOLD TO MINT FOR COMMEMORATIVE COIN PROGRAM

Section 101(f) [title V, § 523] of Pub. L. 104–208 provided in part: ''That profits generated from the sale of gold to the United States Mint for this program shall be considered as a receipt to be deposited into the General Fund of the Treasury.''

USE OF GOVERNMENT PLATINUM RESERVES STOCKPILED AT MINT

Section 101(f) [title V, § 524] of Pub. L. 104–208 provided in part: ''That the Secretary is authorized to use Government platinum reserves stockpiled at the United States Mint as working inventory and shall ensure that reserves utilized are replaced by the Mint.''

REFORM OF COMMEMORATIVE COIN PROGRAMS

Pub. L. 103–186, title III, Dec. 14, 1993, 107 Stat. 2251, as amended by Pub. L. 104–208, div. A, title I, § 101(f) [title V, § 529(b)(4)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–352; Pub. L. 104–316, title I, § 115(h), Oct. 19, 1996, 110 Stat. 3835, provided that:

''SEC. 301. SENSE OF CONGRESS RESOLUTION.

''(a) FINDINGS.—The Congress hereby makes the following findings:

''(1) Congress has authorized 18 commemorative coin programs in the 9 years since 1984.

''(2) There are more meritorious causes, events, and people worthy of commemoration than can be honored with commemorative coinage.

''(3) Commemorative coin legislation has increased at a pace beyond that which the numismatic community can reasonably be expected to absorb.

''(4) It is in the interests of all Members of Congress that a policy be established to control the flow of commemorative coin legislation.

''(b) DECLARATION.—It is the sense of the Congress that the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate should not report or otherwise clear for consideration by the House of Representatives or the Senate legislation providing for more than 2 commemorative coin programs for any year, unless the committee determines, on the basis of a recommendation by the Citizens Commemorative Coin Advisory Committee, that extraordinary merit exists for an additional commemorative coin program.

''SEC. 302. REPORTS BY RECIPIENTS OF COMMEMORATIVE COIN SURCHARGES.

''(a) QUARTERLY FINANCIAL REPORT.—

''(1) IN GENERAL.—Each person who receives, after the date of the enactment of this Act [Dec. 14, 1993], any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a quarterly financial report to the Director of the United States Mint and the Comptroller General of the United States describing in detail the expenditures made by such person from the proceeds of the surcharge.

''(2) INFORMATION TO BE INCLUDED.—The report under paragraph (1) shall include information on the proportion of the surcharges received during the period covered by the report to the total revenue of such person during such period, expressed as a percentage, and the percentage of total revenue during such period which was spent on administrative expenses (including salaries, travel, overhead, and fund raising).

''(3) DUE DATES.—Quarterly reports under this subsection shall be due at the end of the 30-day period beginning on the last day of any calendar quarter during which any surcharge derived from the sale of commemorative coins is received by any person.

''(b) FINAL REPORT.—Each person who receives, after the date of the enactment of this Act, any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a final report on the expenditures made by such person from the proceeds of all surcharges received by such person, including information described in subsection (a)(2), before the end of the 1-year period beginning on the last day on which sales of such coins may be made.''

AMOUNT EQUAL TO PROFIT FROM SALE OF GOLD COINS DEPOSITED IN GENERAL FUND OF TREASURY TO REDUCE NATIONAL DEBT

Section 2(f) of Pub. L. 99–185 provided that an amount equal to the amount by which the proceeds from the sale of the coins issued under 31 U.S.C. 5112(i) exceeded the sum of the cost of minting, marketing, and distributing such coins, and the value of gold certificates (not exceeding forty-two and two-ninths dollars a fine troy ounce) retired from the use of gold contained in such coins, was to be deposited in the general fund of the Treasury and used for the sole purpose of reducing the national debt, prior to repeal by Pub. L. 102–390, title II, § 221(c)(2)(A), Oct. 6, 1992, 106 Stat. 1628, effective Oct. 1, 1992.

ISSUANCE OF GOLD COINS TO RESULT IN NO NET COST TO UNITED STATES

Section 2(g) of Pub. L. 99–185 provided that: ''The Secretary shall take all actions necessary to ensure that the issuance of the coins minted under section 5112(i) of title 31, United States Code, shall result in no net cost to the United States Government.''

COMMEMORATIVE COINS

Provisions authorizing commemorative coins were contained in the following acts:

Pub. L. 110–451, Dec. 2, 2008, 122 Stat. 5021.—Civil Rights Act of 1964.

Pub. L. 110–450, Dec. 1, 2008, 122 Stat. 5017.—United States Army.

Pub. L. 110–363, Oct. 8, 2008, 122 Stat. 4015.—Boy Scouts of America Centennial.

Pub. L. 110–357, Oct. 8, 2008, 122 Stat. 3998.—National Infantry Museum and Soldier Center.

Pub. L. 110–277, July 17, 2008, 122 Stat. 2599.—American Veterans Disabled for Life.

Pub. L. 109–285, Sept. 27, 2006, 120 Stat. 1215.—Abraham Lincoln.

Pub. L. 109–247, July 27, 2006, 120 Stat. 582.—Louis Braille Bicentennial—Braille Literacy.

Pub. L. 109–230, §§ 1–7, June 15, 2006, 120 Stat. 391–393.—San Francisco Old Mint.

Pub. L. 109–146, Dec. 22, 2005, 119 Stat. 2676.—Little Rock Central High School Desegregation 50th Anniversary.

Pub. L. 108–486, Dec. 23, 2004, 118 Stat. 3934.—American Bald Eagle Recovery and National Emblem.

Pub. L. 108–464, Dec. 21, 2004, 118 Stat. 3878.—Benjamin Franklin.

Pub. L. 108–291, Aug. 6, 2004, 118 Stat. 1024.—Marine Corps 230th Anniversary.

Pub. L. 108–290, Aug. 6, 2004, 118 Stat. 1021.—John Marshall.

Pub. L. 108–289, Aug. 6, 2004, 118 Stat. 1017.—Jamestown 400th Anniversary.

Pub. L. 106–435, Nov. 6, 2000, 114 Stat. 1916.—2002 Winter Olympic Games.

Pub. L. 106–375, Oct. 27, 2000, 114 Stat. 1435.—National Museum of the American Indian.

Pub. L. 106–126, title I, Dec. 6, 1999, 113 Stat. 1643.—Leif Ericson millennium.

Pub. L. 106–126, title II, Dec. 6, 1999, 113 Stat. 1644.—United States Capitol visitor center.

Pub. L. 106–126, title III, Dec. 6, 1999, 113 Stat. 1647; Pub. L. 109–232, June 15, 2006, 120 Stat. 395.—Lewis and Clark Expedition bicentennial.

Pub. L. 105–331, Oct. 31, 1998, 112 Stat. 3073; Pub. L. 110–3, Feb. 8, 2007, 121 Stat. 6.—Thomas Alva Edison.

Pub. L. 105–268, Oct. 19, 1998, 112 Stat. 2378.—Library of Congress bicentennial.

Pub. L. 105–124, § 6, Dec. 1, 1997, 111 Stat. 2537.—First flight by Orville and Wilbur Wright.

Pub. L. 104–329, § 2, title I, §§ 101–108, Oct. 20, 1996, 110 Stat. 4005–4011; Pub. L. 105–277, div. C, title I, § 139(c), Oct. 21, 1998, 112 Stat. 2681–599.—Dolley Madison, George Washington, Black Revolutionary War patriots, Franklin Delano Roosevelt Memorial, Yellowstone National Park, National Law Enforcement Officers Memorial, and Jackie Robinson.

Pub. L. 104–96, Jan. 10, 1996, 109 Stat. 981.—Smithsonian Institution sesquicentennial.

Pub. L. 103–328, title II, § 204, Sept. 29, 1994, 108 Stat. 2369.—1995 Special Olympics World Games.

Pub. L. 103–328, title II, § 205, Sept. 29, 1994, 108 Stat. 2371.—National community service.

Pub. L. 103–328, title II, § 206, Sept. 29, 1994, 108 Stat. 2373.—Robert F. Kennedy Memorial.

Pub. L. 103–328, title II, § 207, Sept. 29, 1994, 108 Stat. 2375.—United States Military Academy bicentennial.

Pub. L. 103–328, title II, § 208, Sept. 29, 1994, 108 Stat. 2377.—United States Botanic Garden.

Pub. L. 103–186, title I, Dec. 14, 1993, 107 Stat. 2245.—Thomas Jefferson.

Pub. L. 103–186, title II, Dec. 14, 1993, 107 Stat. 2247.—Prisoner-of-war, Vietnam Veterans Memorial, and Women in Military Service for America Memorial.

Pub. L. 103–186, title IV, Dec. 14, 1993, 107 Stat. 2252.—United States Capitol bicentennial.

Pub. L. 102–414, Oct. 14, 1992, 106 Stat. 2106.—World War II 50th anniversary.

Pub. L. 102–390, title I, Oct. 6, 1992, 106 Stat. 1620; Pub. L. 104–74, Dec. 26, 1995, 109 Stat. 784.—1996 Olympic Games.

Pub. L. 102–379, Oct. 5, 1992, 106 Stat. 1362.—Civil War battlefields.

Pub. L. 102–281, title I, May 13, 1992, 106 Stat. 133; Pub. L. 102–390, title II, § 221(c)(2)(G), Oct. 6, 1992, 106 Stat. 1628.—White House 200th anniversary.

Pub. L. 102–281, title II, May 13, 1992, 106 Stat. 135; Pub. L. 102–390, title II, § 221(c)(2)(H), Oct. 6, 1992, 106 Stat. 1628; Pub. L. 104–66, title I, § 1132(a), Dec. 21, 1995, 109 Stat. 725.—World Cup USA 1994.

Pub. L. 102–281, title IV, §§ 401–411, May 13, 1992, 106 Stat. 139–141; Pub. L. 102–390, title II, § 221(c)(2)(I), Oct. 6, 1992, 106 Stat. 1628.—Christopher Columbus quincentenary.

Pub. L. 102–281, title V, May 13, 1992, 106 Stat. 145; Pub. L. 104–66, title I, § 1132(c), Dec. 21, 1995, 109 Stat. 725.—James Madison and Bill of Rights.

Pub. L. 101–495, Oct. 31, 1990, 104 Stat. 1187; Pub. L. 102–390, title II, § 221(c)(2)(F), Oct. 6, 1992, 106 Stat. 1628.—Korean War Veterans Memorial.

Pub. L. 101–406, Oct. 3, 1990, 104 Stat. 879; Pub. L. 102–390, title II, § 221(c)(2)(E), Oct. 6, 1992, 106 Stat. 1628.—1992 Olympic Games.

Pub. L. 101–404, Oct. 2, 1990, 104 Stat. 875; Pub. L. 102–390, title II, § 221(c)(2)(D), Oct. 6, 1992, 106 Stat. 1628.—United Services Organization 50th anniversary.

Pub. L. 101–332, July 16, 1990, 104 Stat. 313; Pub. L. 102–390, title II, § 221(c)(2)(C), Oct. 6, 1992, 106 Stat. 1628; Pub. L. 103–328, title II, § 209, Sept. 29, 1994, 108 Stat. 2378.—Mount Rushmore National Memorial golden anniversary.

Pub. L. 100–673, Nov. 17, 1988, 102 Stat. 3992; Pub. L. 101–36, June 9, 1989, 103 Stat. 69; Pub. L. 101–302, title III, § 312(c), May 25, 1990, 104 Stat. 245; Pub. L. 103–186, title IV, § 408(b), Dec. 14, 1993, 107 Stat. 2253.—United States Congress bicentennial.

Pub. L. 100–467, Oct. 3, 1988, 102 Stat. 2275; Pub. L. 102–390, title II, § 221(c)(2)(B), Oct. 6, 1992, 106 Stat. 1628.—Dwight David Eisenhower.

Pub. L. 100–141, Oct. 28, 1987, 101 Stat. 832.—1988 Olympic Games.

Pub. L. 99–582, Oct. 29, 1986, 100 Stat. 3315.—United States Constitution bicentennial.

Pub. L. 99–61, title I, July 9, 1985, 99 Stat. 113.—Statue of Liberty and Ellis Island.

Pub. L. 97–220, July 22, 1982, 96 Stat. 222.—1984 Olympic Games.

POSSESSION OF GOLD COINS AND BULLION

The possession of gold coins and bullion was prohibited except under Government license by Ex. Ord. No. 6260, eff. Aug. 28, 1933. That prohibition was revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, eff. Dec. 31, 1974. See notes set out under section 95a of Title 12, Banks and Banking.

## § 5113. Tolerances and testing of coins

(a) The Secretary of the Treasury may prescribe reasonable manufacturing tolerances for specifications in section 5112 of this title (except for specifications that are limits) for the dollar, half dollar, quarter dollar, and dime coins. The weight of the 5-cent coin may vary not more than 0.194 gram. The weight of the one-cent coin may vary not more than 0.13 gram. Any gold coin issued under section 5112 of this title shall contain the full weight of gold stated on the coin.

(b) The Secretary shall keep a record of the kind, number, and weight of each group of coins minted and test a number of the coins separately to determine if the coins conform to the weight specified in section 5112(a) of this title. If the coins tested do not conform, the Secretary—

(1) shall weigh each coin of the group separately and deface the coins that do not conform and cast them into bars for reminting; or

(2) may remelt the group of coins.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 983; Pub. L. 100–274, § 4(b), Mar. 31, 1988, 102 Stat. 50.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5113(a) ..... | 31:350. | R.S. § 3537; Sept. 26, 1890, ch. 945, § 1, 26 Stat. 485. |
| | 31:398(5). | July 23, 1965, Pub. L. 89–81, § 108(5), 79 Stat. 255. |
| 5113(b) ..... | 31:351. | R.S. § 3538; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |

In subsection (a), the words ''for the dollar, half dollar, quarter dollar, and dime coins'' are added because of the restatement. The words ''0.194 gram'' are substituted for ''three grains'', and the words ''0.13 gram'' are substituted for ''two grains'', for consistency in the revised chapter.

In subsection (b), before clause (1), the words ''Secretary shall keep a record of the kind, number, and weight of each group of coins minted'' are substituted for 31:351(1st sentence) because of the source provisions restated in section 321(c) of the revised title. In clause (1), the words ''deface the coins that do not conform and cast them into bars for reminting'' are substituted for ''shall be defaced and delivered to the superintendent of melting and refining department as standard bullion, to be again formed into ingots and recoined'' for consistency in the revised chapter and to eliminate unnecessary words. In clause (2), the words ''if more convenient'' are omitted as surplus.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–274 inserted at end ''Any gold coin issued under section 5112 of this title shall contain the full weight of gold stated on the coin.''

## § 5114. Engraving and printing currency and security documents

(a) AUTHORITY TO ENGRAVE AND PRINT.—

(1) IN GENERAL.—The Secretary of the Treasury shall engrave and print United States currency and bonds of the United States Government and currency and bonds of United States territories and possessions from intaglio plates on plate printing presses the Secretary selects. However, other security documents and checks may be printed by any process the Secretary selects. Engraving and printing shall be carried out within the Department of the Treasury if the Secretary decides the engraving and printing can be carried out as cheaply, perfectly, and safely as outside the Department.

(2) ENGRAVING AND PRINTING FOR OTHER GOVERNMENTS.—The Secretary of the Treasury may produce currency, postage stamps, and other security documents for foreign governments if—

(A) the Secretary of the Treasury determines that such production will not interfere with engraving and printing needs of the United States; and

(B) the Secretary of State determines that such production would be consistent with the foreign policy of the United States.

(3) PROCUREMENT GUIDELINES.—Articles, material, and supplies procured for use in the production of currency, postage stamps, and other security documents for foreign govern-

ments pursuant to paragraph (2) shall be treated in the same manner as articles, material, and supplies procured for public use within the United States for purposes of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.; commonly referred to as the Buy American Act).

(b) United States currency has the inscription ''In God We Trust'' in a place the Secretary decides is appropriate. Only the portrait of a deceased individual may appear on United States currency and securities. The name of the individual shall be inscribed below the portrait.

(c) The Secretary may make a contract for a period of not more than 4 years to manufacture distinctive paper for United States currency and securities. To promote competition among manufacturers of the distinctive paper, the Secretary may split the award for the manufacture of the paper between the 2 bidders with the lowest prices a pound. When the Secretary decides that it is necessary to operate more than one mill to manufacture distinctive paper, the Secretary may—

(1) employ individuals temporarily at rates of pay equivalent to the rates of pay of regular employees; and

(2) charge the pay of the temporary employees to the appropriation available for manufacturing distinctive paper.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 983; Pub. L. 108–458, title VI, §6301(a), Dec. 17, 2004, 118 Stat. 3748.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5114(a) ..... | 31:177. | Aug. 24, 1912, ch. 355, §1(4th par. under heading ''Engraving and Printing''), 37 Stat. 430. |
| | | Jan. 3, 1923, ch. 22(2d par. under heading ''Bureau of Engraving and Printing''), 42 Stat. 1099. |
| | 31:415. | Mar. 3, 1877, ch. 105(provisos in par. under heading ''Bureau of Engraving and Printing''), 19 Stat. 353. |
| | 31:416. | R.S. §3577. |
| 5114(b) ..... | 31:324a. | July 11, 1955, ch. 303, 69 Stat. 290. |
| | 31:413. | R.S. §3576. |
| | 31:414. | Mar. 2, 1889, ch. 411, §1(5th proviso under heading ''Engraving and Printing''), 25 Stat. 945. |
| 5114(c) ..... | 31:418. | July 1, 1916, ch. 209, §1(2d par. on p. 277), 39 Stat. 277; Oct. 31, 1951, ch. 654, §2(19), 65 Stat. 707. |
| | 31:418a. | Aug. 11, 1951, ch. 301, §101(proviso under heading ''Bureau of Engraving and Printing''), 65 Stat. 184. |
| | 31:419. | Apr. 4, 1924, ch. 84(1st par. on p. 69), 43 Stat. 69. |

In subsection (a), the words ''The Secretary of the Treasury shall engrave and print'' are substituted for ''The work of engraving and printing . . . shall be performed at the Treasury Department'' in 31:415 because of the source provisions restated in section 321(c) of the revised title. The words ''United States currency and security documents of the United States Government and currency and bonds of the United States territories and possessions'' are substituted for ''the backs and tints of all United States bonds, the backs and tints of all United States paper money, and the backs and tints of bonds and paper money issued by any of the insular possessions of the United States'' in 31:177 to eliminate unnecessary words and for clarity and consistency in the revised title. The words ''other security documents and checks'' are substituted for ''checks'' because only currency and bonds must be printed from intaglio plates. The text of 31:177(1st proviso) is omitted as unnecessary because of the authority of the Secretary to engrave and print restated in the subsection and the source provisions restated in section 303 of the revised title. The text of 31:177(last proviso) is omitted as executed. The text of the first and 2d provisos in the 4th paragraph under the heading ''Engraving and Printing'' in section 1 of the Act of August 24, 1912 (ch. 355, 37 Stat. 430), is omitted as superseded by 31:177(1st proviso). The words after the semicolon in the 2d paragraph under the heading ''Bureau of Engraving and Printing'' of the Act of January 3, 1923 (ch. 22, 42 Stat. 1099), are omitted as executed. The words ''if the Secretary decides the engraving and printing can be carried out . . . as outside the Department'' are substituted for ''provided it can be done there'' in 31:415 for clarity. The words ''The Secretary of the Treasury may purchase and provide all the machinery and materials'' in 31:416 are omitted as being superseded by section 5142 of the revised title. The words ''and employ such persons and appoint such officers as are necessary for the purpose of section 415 of this title'' are omitted as unnecessary because of 5:3101. The text of section 3577(words before the semicolon) of the Revised Statutes is omitted as superseded by 31:415.

In subsection (b), the words ''United States currency has the inscription'' are substituted for ''the dies shall bear . . . the inscription'' in 31:324a for clarity. The words ''At such time as new dies for the printing of currency are adopted'' are omitted as executed. The words ''and thereafter this inscription shall appear on all United States currency and coins'' are omitted as unnecessary because of the restatement of the source provisions in this subsection and section 5112(d) of the revised title. The words ''in connection with the current program of the Treasury Department to increase the capacity of presses utilized by the Bureau of Engraving and Printing'' in the Act of July 11, 1955 (ch. 303, 69 Stat. 290), are omitted as unnecessary. The words ''Only . . . of a deceased individual'' are substituted for ''No . . . while the original of such portrait is living'' in 31:413 for clarity. The words ''United States currency and obligations'' are substituted for ''bonds, securities, notes, fractional or postal currency of the United States'' for consistency in the revised title. The words ''shall be placed upon any of the plates for bonds, securities, notes, and silver certificates of the United States'' in 31:414 are omitted as unnecessary because of the restatement.

In subsection (c), before clause (1), the words ''subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended'' in 31:418 are omitted as unnecessary. The words ''On and after August 11, 1951'' in 31:418a are omitted as executed. The words ''received after advertisement'' are omitted as unnecessary because of 41:252. The words ''the Secretary decides'' are added for clarity. In clause (1), the words ''as may be necessary'' in 31:419 are omitted as surplus. In clause (2), the word ''pay'' is substituted for ''compensation'' for consistency in the revised subsection and with other titles of the United States Code.

REFERENCES IN TEXT

Title III of the Act of March 3, 1933, referred to in subsec. (a)(3), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, known as the Buy American Act, which is classified generally to sections 10a, 10b, and 10c of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458 inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added pars. (2) and (3).

PROHIBITION ON USE OF FUNDS FOR MANUFACTURE OF DISTINCTIVE PAPER FOR CURRENCY AND SECURITIES BY FOREIGN OWNED CORPORATIONS OR OUTSIDE UNITED STATES; EXCEPTION

Pub. L. 100–440, title VI, § 617(a), Sept. 22, 1988, 102 Stat. 1755, provided that: ''None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100–202, § 101(m) [title VI, § 622(a)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–428.

## § 5115. United States currency notes

(a) The Secretary of the Treasury may issue United States currency notes. The notes—

(1) are payable to bearer; and

(2) shall be in a form and in denominations of at least one dollar that the Secretary prescribes.

(b) The amount of United States currency notes outstanding and in circulation—

(1) may not be more than $300,000,000; and

(2) may not be held or used for a reserve.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 983.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5115(a) ..... | 31:401. | R.S. § 3571. |
| 5115(b) ..... | 31:402. | June 20, 1874, ch. 343, § 6, 18 Stat. 124; Jan. 14, 1875, ch. 15, § 3, 18 Stat. 296. |

In the section, the words ''United States currency notes'' are substituted for ''United States notes'' for clarity and consistency in the revised title.

In subsection (a), the first sentence is added for clarity and because of the restatement. The words ''shall not bear interest'' are omitted because of the source provisions restated in section 5118 of the revised title.

In subsection (b), before clause (1), the words ''in circulation'' are substituted for ''to be used as a part of the circulation medium'' to eliminate unnecessary words. In clause (1), the words ''the sum of'' are omitted as surplus. The words ''which said sum shall appear in each monthly statement of the public debt'' are omitted because of the source provisions restated in section 5118 of the revised title. In clause (2), the words ''and no part thereof shall'' are omitted because of the restatement. The text of section 3(less 2d sentence) of the Act of January 14, 1875 (ch. 15, 18 Stat. 296), is omitted as executed.

## § 5116. Buying and selling gold and silver

(a)(1) With the approval of the President, the Secretary of the Treasury may—

(A) buy and sell gold in the way, in amounts, at rates, and on conditions the Secretary considers most advantageous to the public interest; and

(B) buy the gold with any direct obligations of the United States Government or United States coins and currency authorized by law, or with amounts in the Treasury not otherwise appropriated.

(2) Amounts received from the purchase of gold are an asset of the general fund of the Treasury. Amounts received from the sale of gold shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

(3) The Secretary shall acquire gold for the coins issued under section 5112(i) of this title by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United States, within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the gold. In the absence of available supplies of such gold at the average world price, the Secretary may use gold from reserves held by the United States to mint the coins issued under section 5112(i) of this title. The Secretary shall issue such regulations as may be necessary to carry out this paragraph.

(b)(1) The Secretary may buy silver mined from natural deposits in the United States, or in a territory or possession of the United States, that is brought to a United States mint or assay office within one year after the month in which the ore from which it is derived was mined. The Secretary may use the coinage metal fund under section 5111(b) of this title to buy silver under this subsection.

(2) The Secretary may sell or use Government silver to mint coins, except silver transferred to stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). The Secretary shall obtain the silver for the coins authorized under section 5112(e) of this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). At such time as the silver stockpile is depleted, the Secretary shall obtain silver as described in paragraph (1) to mint coins authorized under section 5112(e). If it is not economically feasible to obtain such silver, the Secretary may obtain silver for coins authorized under section 5112(e) from other available sources. The Secretary shall not pay more than the average world price for silver under any circumstances. As used in this paragraph, the term ''average world price'' means the price determined by a widely recognized commodity exchange at the time the silver is obtained by the Secretary. The Secretary shall sell silver under conditions the Secretary considers appropriate for at least $1.292929292 a fine troy ounce.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 984; Pub. L. 99–61, title II, § 203, July 9, 1985, 99 Stat. 116; Pub. L. 99–185, § 2(c), Dec. 17, 1985, 99 Stat. 1178; Pub. L. 100–274, § 5, Mar. 31, 1988, 102 Stat. 50; Pub. L. 107–201, § 3(a)(1), July 23, 2002, 116 Stat. 737.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5116(a) ..... | 31:733(words after semicolon). | R.S. §3699(words after semicolon); restated Jan. 30, 1934, ch. 6, §9, 48 Stat. 341. |
| | 31:734. | R.S. §3700; restated Jan. 30, 1934, ch. 6, §8, 48 Stat. 341. |
| 5116(b)(1) | 31:335. | R.S. §3526; restated May 10, 1950, ch. 173, 64 Stat. 157; July 9, 1956, ch. 535, §2, 70 Stat. 518; July 23, 1965, Pub. L. 89–81, §205, 79 Stat. 256. |
| | 31:394. | July 23, 1965, Pub. L. 89–81, §104, 79 Stat. 255. |
| 5116(b)(2) | 31:405a–1. | June 4, 1963, Pub. L. 88–36, §2, 77 Stat. 54; July 23, 1965, Pub. L. 89–81, §209, 79 Stat. 257; restated June 24, 1967, Pub. L. 90–29, §3, 81 Stat. 77. |

In subsection (a)(1), the words ''With the approval of the President'' are applied to 31:733(words after semicolon) because of 31:822b. The words ''at home or abroad'' in 31:733(words after semicolon) and 734 are omitted as surplus. The words ''terms and'' are omitted as included in ''conditions''. The text of 31:733(proviso) 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 October 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. The text of 31:734(1st sentence words after semicolon) is omitted as surplus.

In subsection (b)(1), the words ''coinage metal fund'' are substituted for ''bullion fund'' in 31:335 as being more precise and because of section 5111 of the revised title. The words ''after July 23, 1965'' in 31:394 are omitted as executed. The words ''to procure bullion for coinage'' and 31:335(2d–last sentences) are omitted as obsolete because the Secretary of the Treasury has authority to mint coins containing silver only under section 5112(e) of the revised title and the Secretary holds sufficient silver to mint those coins. See Sen. Rept. No. 91–1084 (1970).

In subsection (b)(2), the word ''terms'' is omitted as being included in ''conditions''. The words ''for at least'' are substituted for ''at a price not less than the monetary value of'' to eliminate unnecessary words.

REFERENCES IN TEXT

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (b)(2), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, §2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107–201 inserted after second sentence ''At such time as the silver stockpile is depleted, the Secretary shall obtain silver as described in paragraph (1) to mint coins authorized under section 5112(e). If it is not economically feasible to obtain such silver, the Secretary may obtain silver for coins authorized under section 5112(e) from other available sources. The Secretary shall not pay more than the average world price for silver under any circumstances. As used in this paragraph, the term 'average world price' means the price determined by a widely recognized commodity exchange at the time the silver is obtained by the Secretary.''

1988—Subsec. (a)(2). Pub. L. 100–274 amended last sentence generally, substituting ''shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt'' for ''shall be deposited in the general fund of the Treasury''.

1985—Subsec. (a)(3). Pub. L. 99–185 added par. (3).

Subsec. (b)(1). Pub. L. 99–61, §203(1), (2), substituted ''The Secretary may buy silver'' for ''The Secretary shall buy silver'', and struck out provision directing that the Secretary pay $1.25 a fine troy ounce for silver.

Subsec. (b)(2). Pub. L. 99–61, §203(3), inserted provision directing that the Secretary obtain the silver for the coins authorized under section 5112(e) of this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

EFFECTIVE DATE OF 1985 AMENDMENTS

Amendment by Pub. L. 99–185 effective Oct. 1, 1985, except that no coins may be issued or sold under section 5112(i) of this title before Oct. 1, 1986, see section 3 of Pub. L. 99–185, set out as a note under section 5112 of this title.

Amendment by Pub. L. 99–61 effective Oct. 1, 1985, with exception as to issuance or sale of coins under section 5112(e) of this title, see section 205 of Pub. L. 99–61, set out as a note under section 5112 of this title.

REGULATIONS

Pub. L. 107–201, §3(a)(2), July 23, 2002, 116 Stat. 737, provided that: ''The Secretary of the Treasury shall issue regulations to implement the amendments made by paragraph (1) [amending this section].''

CONGRESSIONAL FINDINGS CONCERNING AMERICAN EAGLE SILVER BULLION PROGRAM

Pub. L. 107–201, §2, July 23, 2002, 116 Stat. 736, provided that: ''Congress finds that—

''(1) the American Eagle Silver Bullion coin leads the global market, and is the largest and most popular silver coin program in the United States;

''(2) established in 1986, the American Eagle Silver Bullion Program is the most successful silver bullion program in the world;

''(3) from fiscal year 1995 through fiscal year 2001, the American Eagle Silver Bullion Program generated—

''(A) revenues of $264,100,000; and

''(B) sufficient profits to significantly reduce the national debt;

''(4) with the depletion of silver reserves in the Defense Logistic Agency's Strategic and Critical Materials Stockpile, it is necessary for the Department of the Treasury to acquire silver from other sources in order to preserve the American Eagle Silver Bullion Program;

''(5) with the ability to obtain silver from other sources, the United States Mint can continue the highly successful American Eagle Silver Bullion Program, exercising sound business judgment and market acquisition practices in its approach to the silver market, resulting in continuing profitability of the program;

''(6) in 2001, silver was commercially produced in 12 States, including, [sic] Alaska, Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, New Mexico, South Dakota, Utah, and Washington;

''(7) Nevada is the largest silver producing State in the Nation, producing—

''(A) 17,500,000 ounces of silver in 2001; and

''(B) 34 percent of United States silver production in 2000;

''(8) the mining industry in Idaho is vital to the economy of the State, and the Silver Valley in northern Idaho leads the world in recorded silver production, with over 1,100,000,000 ounces of silver produced between 1884 and 2001;

''(9) the largest, active silver producing mine in the Nation is the McCoy/Cove Mine in Nevada, which produced more than 107,000,000 ounces of silver between 1989 and 2001;

''(10) the mining industry in Idaho—

''(A) employs more than 3,000 people;

''(B) contributes more than $900,000,000 to the Idaho economy; and

''(C) produces $70,000,000 worth of silver per year;

''(11) the silver mines of the Comstock lode, the premier silver producing deposit in Nevada, brought peo-

ple and wealth to the region, paving the way for statehood in 1864, and giving Nevada its nickname as 'the Silver State';

''(12) mines in the Silver Valley—

''(A) represent an important part of the mining history of Idaho and the United States; and

''(B) have served in the past as key components of the United States war effort; and

''(13) silver has been mined in Nevada throughout its history, with every significant metal mining camp in Nevada producing some silver.''

ANNUAL REPORT ON SILVER PURCHASES IN SUPPORT OF AMERICAN EAGLE SILVER BULLION PROGRAM

Pub. L. 107–201, § 3(c), July 23, 2002, 116 Stat. 737, provided that:

''(1) IN GENERAL.—The Director of the United States Mint shall prepare and submit to Congress an annual report on the purchases of silver made pursuant to this Act [amending this section and enacting provisions set out as notes under this section and sections 5101 and 5112 of this title] and the amendments made by this Act.

''(2) CONCURRENT SUBMISSION.—The report required by paragraph (1) may be incorporated into the annual report of the Director of the United States Mint on the operations of the mint and assay offices, referred to in section 1329 of title 44, United States Code.''

TERMINATION OF COINAGE METAL FUND

All assets and liabilities of Coinage Metal Fund transferred to United States Mint Public Enterprise Fund and such coinage fund to cease to exist as separate fund as its activities and functions are subsumed under and subject to United States Mint Public Enterprise Fund, see section 5136 of this title.

## § 5117. Transferring gold and gold certificates

(a) All right, title, and interest, and every claim of the Board of Governors of the Federal Reserve System, a Federal reserve bank, and a Federal reserve agent, in and to gold is transferred to and vests in the United States Government to be held in the Treasury. Payment for the transferred gold is made by crediting equivalent amounts in dollars in accounts established in the Treasury under the 15th paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 467). Gold not in the possession of the Government shall be held in custody for the Government and delivered on the order of the Secretary of the Treasury. The Board of Governors, Federal reserve banks, and Federal reserve agents shall give instructions and take action necessary to ensure that the gold is so held and delivered.

(b) The Secretary shall issue gold certificates against gold transferred under subsection (a) of this section. The Secretary may issue gold certificates against other gold held in the Treasury. The Secretary may prescribe the form and denominations of the certificates. The amount of outstanding certificates may be not more than the value (for the purpose of issuing those certificates, of 42 and two-ninths dollars a fine troy ounce) of the gold held against gold certificates. The Secretary shall hold gold in the Treasury equal to the required dollar amount as security for gold certificates issued after January 29, 1934.

(c) With the approval of the President, the Secretary may prescribe regulations the Secretary considers necessary to carry out this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 984.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5117(a) ..... | 31:441(1st, last sentences). | Jan. 30, 1934, ch. 6, §§ 2(a), 11, 48 Stat. 337, 342. |
| 5117(b) ..... | 31:405b. | Jan. 30, 1934, ch. 6, § 14(c), 48 Stat. 344; Mar. 18, 1968, Pub. L. 90–269, § 12, 82 Stat. 51; restated Oct. 19, 1976, Pub. L. 94–564, § 8, 90 Stat. 2661. |
| | 31:408a(last proviso). | Jan. 30, 1934, ch. 6, § 6(last proviso), 48 Stat. 340; Mar. 18, 1968, Pub. L. 90–269, § 8, 82 Stat. 50. |
| | 31:441(2d sentence). | |
| 5117(c) ..... | 31:822b. | |

In subsection (a), the words ''On January 30, 1934'' are omitted as executed. The word ''gold'' is substituted for ''gold coin and gold bullion'' for consistency and to omit unnecessary words. The word ''transferred'' is substituted for ''pass'' for consistency in the subsection. The words ''to be held in the Treasury'' are added for consistency with the source provisions restated in subsection (b) of the revised section.

In subsection (b), the first sentence is substituted for 31:441(2d sentence) for consistency. The word ''issued'' in 31:405b is omitted as being included in ''outstanding''. The words ''of 42 and two-ninths dollars a fine troy ounce)'' are substituted for ''at the legal standard provided in section 449 of this title on October 19, 1976'' because that was the legal standard in that section on that date. The text of 31:449 was repealed by section 6 of the Bretton Woods Agreements Act. The words ''The Secretary shall hold . . . in the Treasury . . . as security'' are substituted for ''security . . . shall be maintained'' in 31:408a(last proviso) because of the source provisions restated in section 321 of the revised title. The words ''gold certificates issued after January 29, 1934'' are substituted for ''gold certificates (including the gold certificates held in the Treasury for credits payable therein)'' for clarity and because of section 5118(c)(1)(A) of the revised title.

In subsection (c), the word ''regulations'' is substituted for ''rules and regulations'', and the word ''necessary'' is substituted for ''necessary or proper'', to eliminate unnecessary words.

## § 5118. Gold clauses and consent to sue

(a) In this section—

(1) ''gold clause'' means a provision in or related to an obligation alleging to give the obligee a right to require payment in—

(A) gold;

(B) a particular United States coin or currency; or

(C) United States money measured in gold or a particular United States coin or currency.

(2) ''public debt obligation'' means a domestic obligation issued or guaranteed by the United States Government to repay money or interest.

(b) The United States Government may not pay out any gold coin. A person lawfully holding United States coins and currency may present the coins and currency to the Secretary of the Treasury for exchange (dollar for dollar) for other United States coins and currency (other than gold and silver coins) that may be lawfully held. The Secretary shall make the exchange under regulations prescribed by the Secretary.

(c)(1) The Government withdraws its consent given to anyone to assert against the Government, its agencies, or its officers, employees, or agents, a claim—

(A) on a gold clause public debt obligation or interest on the obligation;

(B) for United States coins or currency; or

(C) arising out of the surrender, requisition, seizure, or acquisition of United States coins or currency, gold, or silver involving the effect or validity of a change in the metallic content of the dollar or in a regulation about the value of money.

(2) Paragraph (1) of this subsection does not apply to a proceeding in which no claim is made for payment or credit in an amount greater than the face or nominal value in dollars of public debt obligations or United States coins or currency involved in the proceeding.

(3) Except when consent is not withdrawn under this subsection, an amount appropriated for payment on public debt obligations and for United States coins and currency may be expended only dollar for dollar.

(d)(1) In this subsection, ''obligation'' means any obligation (except United States currency) payable in United States money.

(2) An obligation issued containing a gold clause or governed by a gold clause is discharged on payment (dollar for dollar) in United States coin or currency that is legal tender at the time of payment. This paragraph does not apply to an obligation issued after October 27, 1977.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 985; Pub. L. 99–185, § 2(d), Dec. 17, 1985, 99 Stat. 1178; Pub. L. 104–208, div. A, title II, § 2609, Sept. 30, 1996, 110 Stat. 3009–475; Pub. L. 105–61, title VI, § 641, Oct. 10, 1997, 111 Stat. 1318.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5118(a) ..... | 31:773d. | Aug. 27, 1935, ch. 780, 49 Stat. 938. |
| 5118(b) ..... | 31:315b. | Jan. 30, 1934, ch. 6, § 5, 48 Stat. 340. |
| | 31:773a. | |
| 5118(c)(1), (2). | 31:773b. | |
| 5118(c)(3) | 31:773c. | |
| 5118(d) ..... | 31:463. | June 5, 1933, ch. 48, § 1, 48 Stat. 113. |
| | 31:463(note). | Oct. 28, 1977, Pub. L. 95–147, § 4(c), 91 Stat. 1229. |

In subsection (a), before clause (1), the words ''the phrase'' are omitted as surplus. In clause (1), the words ''declared to be against public policy by section 463 of this title'' are omitted as surplus. Clause (2) is substituted for 31:773d(words after semicolon) for consistency in the revised title and to eliminate unnecessary words.

In subsection (b), the words ''after January 30, 1934'' in 31:315b are omitted as executed. The words ''that may be lawfully held'' are substituted for ''which may be lawfully acquired and are legal tender for public and private debts'' in 31:773a for consistency in the subsection and to eliminate unnecessary words. The words ''and that the owners of the gold clause securities of the United States shall be, at their election, entitled to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity or to prior redemption date, whichever is earlier'' in section 1 of the Act of August 27, 1935 (ch. 780, 49 Stat. 938), are omitted as expired. The words ''make the exchange'' are substituted for ''make such exchanges and payments upon presentation hereunder'' to eliminate unnecessary words. The words ''No gold shall after January 30, 1934, be coined'' in 31:315b are omitted because of section 5112 of the revised title. The text of 31:315b(proviso) is omitted as unnecessary because of the restatement. The text of 31:315b(last sentence) is omitted as executed.

In subsection (c)(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 ''to anyone'' are added for clarity. The words ''whether by way of suit, counterclaim, set-off, recoupment, or other affirmative action or defense in its own name or in the name of'' are omitted as surplus. The word ''employees'' is added for consistency in the revised title and with other titles of the Code. The word ''instrumentalities'' is omitted as unnecessary because of section 101 of the revised title. The word ''claim'' is substituted for ''right, privilege, or power'' to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code. The words ''in any proceeding of any nature whatsoever'' are omitted as surplus. In clause (C), the words ''or demand'' are omitted as surplus.

In subsection (c)(2), the words ''any suit commenced prior to August 27, 1935, or which may be commenced by January 1, 1936'' are omitted as executed. The words ''referred to in this section'' are omitted as surplus.

In subsection (c)(3), the words ''may be expended'' are substituted for ''an amount appropriated or authorized to be expended'' and ''shall be available for or expended in'', and the words ''dollar for dollar'' are substituted for ''on an equal and uniform dollar for dollar basis'', to eliminate unnecessary words.

In subsection (d)(1), the words ''including every obligation of and to the United States'' are omitted as surplus. The text of 31:463(b)(words after semicolon) is omitted as unnecessary because of the restatement.

AMENDMENTS

1997—Subsec. (d)(2). Pub. L. 105–61 struck out at end ''This paragraph shall apply to any obligation issued on or before October 27, 1977, notwithstanding any assignment or novation of such obligation after October 27, 1977, unless all parties to the assignment or novation specifically agree to include a gold clause in the new agreement. Nothing in the preceding sentence shall be construed to affect the enforceability of a Gold Clause contained in any obligation issued after October 27, 1977 if the enforceability of that Gold Clause has been finally adjudicated before the date of enactment of the Economic Growth and Regulatory Paperwork Reduction Act of 1996.''

1996—Subsec. (d)(2). Pub. L. 104–208 inserted at end ''This paragraph shall apply to any obligation issued on or before October 27, 1977, notwithstanding any assignment or novation of such obligation after October 27, 1977, unless all parties to the assignment or novation specifically agree to include a gold clause in the new agreement. Nothing in the preceding sentence shall be construed to affect the enforceability of a Gold Clause contained in any obligation issued after October 27, 1977 if the enforceability of that Gold Clause has been finally adjudicated before the date of enactment of the Economic Growth and Regulatory Paperwork Reduction Act of 1996.''

1985—Subsec.(b). Pub. L. 99–185 struck out ''or deliver'' after ''pay out'' and inserted ''(other than gold and silver coins)'' before ''that may be lawfully held''.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–185 effective Oct. 1, 1985, except that no coins may be issued or sold under section 5112(i) of this title before Oct. 1, 1986, see section 3 of Pub. L. 99–185, set out as a note under section 5112 of this title.

## § 5119. Redemption and cancellation of currency

(a) Except to the extent authorized in regulations the Secretary of the Treasury prescribes with the approval of the President, the Secretary may not redeem United States currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) in gold. However, the Secretary shall re-

deem gold certificates owned by the Federal reserve banks at times and in amounts the Secretary decides are necessary to maintain the equal purchasing power of each kind of United States currency. When redemption in gold is authorized, the redemption may be made only in gold bullion bearing the stamp of a United States mint or assay office in an amount equal at the time of redemption to the currency presented for redemption.

(b)(1) Except as provided in subsection (c)(1) of this section, the following are public debts bearing no interest:

(A) gold certificates issued before January 30, 1934.

(B) silver certificates.

(C) notes issued under the Act of July 14, 1890 (ch. 708, 26 Stat. 289).

(D) Federal Reserve notes for which payment was made under section 4 of the Old Series Currency Adjustment Act.

(E) United States currency notes, including those issued under section 1 of the Act of February 25, 1862 (ch. 33, 12 Stat. 345), the Act of July 11, 1862 (ch. 142, 12 Stat. 532), the resolution of January 17, 1863 (P.R. 9; 12 Stat. 822), section 2 of the Act of March 3, 1863 (ch. 73, 12 Stat. 710), or section 5115 of this title.

(2) REDEMPTION, CANCELLATION, AND DESTRUCTION OF CURRENCY.—The Secretary shall—

(A) redeem any currency described in paragraph (1) from the general fund of the Treasury upon presentment to the Secretary; and

(B) cancel and destroy such currency upon redemption.

The Secretary shall not be required to reissue United States currency notes upon redemption.

(c)(1) The Secretary may determine the amount of the following United States currency that will not be presented for redemption because the currency has been destroyed or irretrievably lost:

(A) circulating notes of Federal reserve banks and national banks issued before July 1, 1929, for which the United States Government has assumed liability.

(B) outstanding currency referred to in subsection (b)(1) of this section.

(2) When the Secretary makes a determination under this subsection, the Secretary shall reduce the amount of that currency outstanding by the amount the Secretary determines will not be redeemed and credit the appropriate receipt account.

(d) To provide a historical collection of United States currency, the Secretary may withhold from cancellation and destruction and transfer to a special account one piece of each design, issue, or series of each denomination of each kind of currency (including circulating notes of Federal reserve banks and national banks) after redemption. The Secretary may make appropriate entries in Treasury accounts because of the transfers.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 985; Pub. L. 102–390, title II, § 226(b), Oct. 6, 1992, 106 Stat. 1630; Pub. L. 103–325, title VI, § 602(g)(14), Sept. 23, 1994, 108 Stat. 2294.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5119(a) ..... | 31:408a(less last proviso). | Jan. 30, 1934, ch. 6, §§6(less last proviso), 11, 15(1st sentence words between 2d and 3d semicolons), 48 Stat. 340, 342, 344. |
| | 31:444(1st sentence words between 2d and 3d semicolons). | |
| | 31:822b. | |
| 5119(b)(1) | 31:405a–3. | June 24, 1967, Pub. L. 90–29, §§1, 2, 81 Stat. 77. |
| | 31:911. | June 30, 1961, Pub. L. 87–66, §§2, 5, 6, 9, 10, 75 Stat. 146, 147. |
| | 31:915(a), (b). | |
| 5119(b)(2) | 31:404. | May 31, 1878, ch. 146, 20 Stat. 87; June 30, 1961, Pub. L. 87–66, § 7, 75 Stat. 147. |
| | 31:420. | R.S. § 3580. |
| | 31:914. | |
| | 31:916. | |
| 5119(c)(1) | 31:915(c)(words before last comma). | |
| 5119(c)(2) | 31:405a–2. | |
| | 31:915(c)(words after last comma). | |
| 5119(d) ..... | 31:917. | |

In subsection (a), the words ''Secretary may not redeem'' are substituted for ''no . . . shall be redeemed'' in 31:408a(less last proviso) because of the source provisions restated in section 321 of the revised title. The words ''United States currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks)'' are substituted for ''currency of the United States'' and the text of 31:444(1st sentence words between 2d and 3d semicolons) for consistency with section 5103 of this title and to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ''upon completion of the transfers and credits authorized and directed by section 912 of this title'' in 31:915 and ''and the amount of the payment credited as a public debt receipt in accordance with such section'' are omitted as executed. In clause (B), the text of 31:405a–3(last sentence) and 31:915(a)(4) is consolidated. The text of 31:405a–3(1st sentence) is omitted as executed. In clauses (C) and (E), the citations in parentheses are included only for information purposes.

In subsection (b)(2), the words ''cancel and destroy'' are substituted for ''retired'' in 31:914 for consistency in the revised section. The words ''paragraph (1) of this subsection'' are substituted for ''Any currency the funds for the redemption or security of which have been transferred pursuant to the provisions of section 912 of this title, and any Federal Reserve notes as to which payment has been made under section 913 of this title'' because of the restatement. The words ''presented to the Secretary'' are substituted for ''presentation at the Treasury'' because of the source provisions restated in section 321(c) of the revised title. The text of 31:916 is omitted as unnecessary because of the restatement. The text of 31:404 and 31:420 is omitted as superseded by the source provisions restated in this subsection and subsection (c). The words ''All acts and parts of acts in conflict herewith are hereby repealed'' in the Act of May 31, 1878 (ch. 146, 20 Stat. 87), are omitted as executed.

In subsection (c)(2), the words ''When the Secretary makes a determination under this subsection'' are added because of the restatement. The words ''on the books of the Treasury'' are omitted as surplus. The text of 31:405(e)(2)(1st sentence) is omitted as superseded by the source provisions restated in subsection (b).

In subsection (d), the word ''paper'' is omitted as surplus. The words ''(including circulating notes of Federal Reserve banks and national banks)'' are substituted for ''including bank notes'' for consistency in the section. The words ''heretofore or hereafter issued'' are omitted as surplus.

REFERENCES IN TEXT

Act of July 14, 1890, ch. 708, 26 Stat. 289, referred to in subsec. (b)(1)(C), which was known as the Sherman Purchase of Silver Act of July 14, 1890, was classified to sections 408, 410, 412, and 453 of former Title 31, and sections 122 and 145 of Title 12, Banks and Banking, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1069.

Section 4 of the Old Series Currency Adjustment Act, referred to in subsec. (b)(1)(D), is section 4 of Pub. L. 87–66, June 30, 1961, 75 Stat. 146, which was classified to section 913 of former Title 31, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1079.

Acts February 25, 1862, July 11, 1862, and March 3, 1863, and resolution January 17, 1863, referred to in subsec. (b)(1)(E), are acts Feb. 25, 1862, ch. 33, 12 Stat. 345, July 11, 1862, ch. 142, 12 Stat. 532, and Mar. 3, 1863, ch. 73, 12 Stat. 709, and resolution Jan. 17, 1863, 12 Stat. 822, respectively, which are not classified to the Code.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–325 inserted concluding provisions.

1992—Subsec. (b)(2). Pub. L. 102–390 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall redeem from the general fund of the Treasury and cancel and destroy currency referred to in paragraph (1) of this subsection when the currency is presented to the Secretary.''

## § 5120. Obsolete, mutilated, and worn coins and currency

(a)(1) The Secretary of the Treasury shall melt obsolete and worn United States coins withdrawn from circulation. The Secretary may use the metal from melting the coins for reminting or may sell the metal. The Secretary shall account for the following in the coinage metal fund under section 5111(b) of this title:

(A) obsolete and worn coins and the metal from melting the coins.

(B) proceeds from the sale of the metal.

(C) losses incurred in the sale of the metal.

(D) losses incurred because of the difference between the face value of the coins melted and the coins minted from the metal.

(2) The Secretary shall reimburse the coinage metal fund for losses under paragraph (1)(C) and (D) of this subsection out of amounts in the coinage profit fund under section 5111(b) of this title.

(b) The Secretary shall—

(1) cancel and destroy (by a secure process) obsolete, mutilated, and worn United States currency withdrawn from circulation; and

(2) dispose of the residue of the currency and notes.

(c) The Comptroller General shall audit the cancellation and destruction of United States currency and the accounting of the cancellation and destruction. Records the Comptroller General considers necessary to make an effective audit easier shall be made available to the Comptroller General.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 986.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5120(a) ..... | 31:317c. | Dec. 18, 1942, ch. 767, § 3, 56 Stat. 1065; July 23, 1965, Pub. L. 89–81, § 203(a), 79 Stat. 256. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5120(b) ..... | 31:421.<br>31:422. | R.S. § 3581.<br>June 23, 1874, ch. 455, § 1(3d par. under heading ''National Currency''), 18 Stat. 206. |
| 5120(c) ..... | 31:49a. | May 20, 1966, Pub. L. 89–427, § 5, 80 Stat. 161. |

In subsection (a)(1), before clause (A), the word ''obsolete'' is substituted for ''uncurrent'' as being more precise. The words ''withdrawn from circulation'' are substituted for ''received in the Treasury'' for clarity. The words ''heretofore or hereafter issued'' are omitted as surplus. The words ''metal from melting the coins'' are substituted for ''the resulting metal'' because of the restatement. The word ''reminting'' is substituted for ''coinage'' for consistency in the revised title. The word ''material'' is omitted as being included in ''metal''. The words ''The Secretary shall account'' are substituted for ''shall be accounted for by entries'' because of the source provisions restated in section 321 of the revised title. In clause (D), the word ''face'' is substituted for ''nominal or face'' to eliminate unnecessary words. The words ''coins minted from the metal'' are substituted for ''the amount the same will produce in new coin'' for clarity.

In subsection (a)(2), the words ''The Secretary shall reimburse'' are substituted for ''fund shall be reimbursed'' because of the source provisions restated in section 321 of the revised title. The text of 31:317c(proviso) is omitted as obsolete because the statutory limit on the coinage metal fund was removed by the restatement of section 3528 of the Revised Statutes by section 206(a) of the Coinage Act of 1965 (Pub. L. 89–81, 79 Stat. 256).

In subsection (b), before clause (1), the words ''The Secretary shall'' are substituted for ''shall be destroyed in such manner and under such regulations as the Secretary of the Treasury may prescribe'' in 31:421 because of the source provisions restated in section 321 of the revised title. In clause (1), the words ''cancel and destroy'' are substituted for ''shall be destroyed'' to conform to subsection (c) and section 5118(c) and (e) of the revised title. The words ''(by a secure process)'' are substituted for ''may be destroyed by maceration instead of burning to ashes'' in 31:422 to eliminate unnecessary words and because of the source provisions restated in section 321 of the revised title. The words ''obsolete, mutilated, and worn . . . withdrawn from circulation'' are substituted for ''which by law are required to be taken up, and not reissued, when taken up'' in 31:421 for consistency with subsection (a) and 12:124. The words ''United States currency'' are substituted for ''all other notes'' in 31:421 and ''All national bank notes . . . and other obligations of the United States'' for consistency in the revised title. The words ''Mutilated United States notes, when replaced according to law'' are omitted as superseded by the source provisions restated in section 5119(b) of the revised title. The text of the 3d paragraph(words before the first semicolon and between the 2d and last semicolons) under the heading ''National Currency'' in section 1 of the Act of June 23, 1874 (ch. 455, 18 Stat. 206), is omitted as executed. In clause (2), the words ''dispose of the residue of the currency and notes'' are substituted for ''The pulp from such macerated issue shall be disposed of only under the direction of the Secretary of the Treasury'' in 31:422 to eliminate unnecessary words and for consistency in the revised title.

In subsection (c), the word ''currency'' is substituted for ''currency . . . unfit for circulation'' to eliminate unnecessary words. The words ''regardless of who is responsible for, and regardless of who performs, such cancellation, destruction, or accounting'' are omitted as unnecessary because of the restatement. The word ''record'' is substituted for ''books, documents, papers, and records'', and the words ''make . . . easier'' are

substituted for ''facilitate'', for consistency in the revised title and with other titles of the United States Code.

TERMINATION OF COINAGE PROFIT FUND AND COINAGE METAL FUND

All assets and liabilities of Coinage Profit Fund and Coinage Metal Fund transferred to United States Mint Public Enterprise Fund and both coinage funds to cease to exist as separate funds as their activities and functions are subsumed under and subject to United States Mint Public Enterprise Fund, see section 5136 of this title.

## § 5121. Refining, assaying, and valuation of bullion

(a) The Secretary of the Treasury shall—

(1) melt and refine bullion;

(2) as required, assay coins, metal, and bullion;

(3) cast gold and silver bullion deposits into bars; and

(4) cast alloys into bars for minting coins.

(b) A person owning gold or silver bullion may deposit the bullion with the Secretary to be cast into fine, standard fineness, or unrefined bars weighing at least 5 troy ounces. When practicable, the Secretary shall weigh the bullion in front of the depositor. The Secretary shall give the depositor a receipt for the bullion stating the description and weight of the bullion. When the Secretary has to melt the bullion or remove base metals before the value of the bullion can be determined, the weight is the weight after the melting or removal of the metals. The Secretary may refuse a deposit of gold bullion if the deposit is less than $100 in value or the bullion is so base that it is unsuitable for the operations of the Bureau of the Mint.

(c) When the gold and silver are combined in bullion that is deposited and either the gold or silver is so little that it cannot be separated economically, the Secretary may not pay the depositor for the gold or silver that cannot be separated.

(d)(1) Under conditions prescribed by the Secretary, a person may exchange unrefined bullion for fine bars when—

(A) gold and silver are combined in the bullion in proportions that cannot be economically refined; or

(B) necessary supplies of acids cannot be procured at reasonable rates.

(2) The charge for refining in an exchange under this subsection may be not more than the charge imposed in an exchange of unrefined bullion for refined bullion.

(e) The Secretary shall prepare bars for payment of deposits. The Secretary shall stamp each bar with a designation of the weight and fineness of the bar and a symbol the Secretary considers suitable to prevent fraudulent imitation of the bar.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 987.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5121(a) ..... | 31:274. | R.S. §3508; Aug. 23, 1912, ch. 350, §1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 31:277. | R.S. §3507. |
| | 31:330. | R.S. §3522. |
| | 31:343. | R.S. §3530; Aug. 23, 1912, ch. 350, §1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| | 31:344. | R.S. §3531; Aug. 23, 1912, ch. 350, §1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| 5121(b) ..... | 31:325(words before 4th comma and after last comma). | R.S. §3518. |
| | 31:327(1st sentence). | R.S. §3519. |
| | 31:328(1st sentence). | R.S. §3520; Mar. 3, 1887, ch. 396, §3, 24 Stat. 635. |
| | 31:329. | R.S. §3521; Aug. 23, 1912, ch. 350, §1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| 5121(c) ..... | 31:327(last sentence). | |
| | 31:328(last sentence). | |
| 5121(d) ..... | 31:360. | R.S. §3546. |
| | 31:362. | June 19, 1878, ch. 329, §1(2d sentence words after last semicolon on p. 191), 20 Stat. 191. |
| 5121(e) ..... | 31:325(words between 4th and last commas). | |
| | 31:347. | R.S. §3534; Aug. 23, 1912, ch. 350, §1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |

In the section, the word ''Secretary'' is substituted for ''superintendent'', ''superintendent of melting and refining department'', ''assayer'', ''Director of the Mint'', and ''Director of the Mint, with the approval of the Secretary of the Treasury'' because of the source provisions restated in section 321(c) of the revised title.

In subsection (a), clause (1) is added to provide a complete list of the duties and powers of the Secretary and for consistency with section 5131 of the revised title. In clause (2), the words ''as required'' are substituted for ''required by the operations of the Bureau of the Mint'' and ''whenever required by the superintendent'' in 31:277 to eliminate unnecessary words. The text of 31:330 is omitted as superseded by the source provisions restated in section 321(c) of the revised title. In clause (3), the word ''bars'' is substituted for ''bars conformable in all respects to the law'' in 31:274 to eliminate unnecessary words. In clause (4), the word ''alloys'' is substituted for ''standard silver or gold, and alloys for minor'' in 31:274, and the text of 31:343(last sentence) is omitted, because coins issued by the Secretary under this chapter are composed of alloys. The words ''minting coins'' are substituted for ''coinage'' for consistency in the revised chapter. The words ''suitable for the superintendent of coining department, from the metals legally delivered to him for that purpose'' in 31:274 and the text of 31:274(last sentence) and 31:343(1st, 2d sentences) are omitted as superseded by the source provisions restated in section 321(c) of the revised title. The text of 31:344(last sentence) is omitted as unnecessary because of the restatement of the source provisions in sections 5112 and 5113 of the revised title.

In subsections (b) and (d), the word ''unrefined'' is substituted for ''unparted'' for consistency in the revised chapter.

In subsection (b), the words ''At the option of the owner'' and ''as he may prefer'' in 31:325 and ''for his benefit'' in 31:327 are omitted as unnecessary because of the restatement. The words ''weighing at least'' are substituted for ''and no such bars shall be issued of a less weight than'' in 31:325 to eliminate unnecessary words. The word ''troy'' is added for clarity. The words ''into coin'' in section 3519 of the Revised Statutes are omitted because the coinage of gold was discontinued

by 31:315b. The text of 31:329(last sentence) is omitted because of the source provisions restated in section 321(c) of the revised title. The words ''and no deposit of silver for other coinage shall be received'' in 31:328(1st sentence) are omitted as unnecessary because of the restatement.

In subsection (c), the word ''economically'' is substituted for ''advantageously'' in 31:327(last sentence) for consistency in the section. The text of 31:328(last sentence) is omitted as unnecessary because of the source provisions restated in section 5121(a) of the revised title.

In subsection (d)(1), before clause (A), the words ''at any of the mints'' in 31:360(1st sentence) are omitted as superseded by the source provisions restated in section 321(c) of the revised title. The text of 31:360(2d sentence) is omitted as unnecessary because of the source provisions restated in section 5121(a) of the revised title.

In subsection (d)(2), the words ''in an exchange under this subsection'' are added for clarity. The word ''refining'' is substituted for ''refining or parting'' for consistency in the revised chapter.

In subsection (e), the word ''suitable'' is substituted for ''expedient'' in 31:325(words between 4th and last commas) for clarity. The words ''but the fineness thereof shall be ascertained and'' in 31:347 are omitted as unnecessary because of the source provisions restated in section 5121(a) of the revised title.

POSSESSION OF GOLD COINS AND BULLION

The possession of gold coins and bullion was prohibited except under Government license by Ex. Ord. No. 6260, eff. Aug. 28, 1933. That prohibition was revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, eff. Dec. 31, 1974. See notes set out under section 95a of Title 12, Banks and Banking.

### § 5122. Payment to depositors

(a) The Secretary of the Treasury shall determine the fineness, weight, and value of each deposit and bar under section 5121 of this title. The value and the amount of charges under subsection (b) of this section shall be based on the fineness and weight of the bullion. The Secretary shall give the depositor a statement of the charges and the net amount of the deposit to be paid in money or bars of the same species of bullion as that deposited.

(b) The Secretary shall impose a charge equal to the average cost of material, labor, waste, and use of machinery of a United States mint or assay office for—

(1) melting and refining bullion;

(2) using copper as an alloy when bullion deposited is above standard;

(3) separating gold and silver combined in the bullion; and

(4) preparing bars.

(c) The Secretary shall pay to the depositor or to a person designated by the depositor money or bars equivalent to the bullion deposited as soon as practicable after the value of the deposit is determined. If demanded, the Secretary shall pay depositors in the order in which the bullion is deposited with the Secretary. However, when there is an unavoidable delay in determining the value of a deposit, the Secretary shall pay subsequent depositors. When practicable and convenient, the Secretary shall pay depositors in the denominations requested by the depositor. After the depositor is paid, the bullion is the property of the United States Government.

(d) To allow the Secretary to pay depositors with as little delay as possible, the Secretary shall keep in the mints and assay offices, when possible, money and bullion the Secretary decides are convenient and necessary.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 987.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5122(a) ..... | 31:273(last sentence). | R.S. § 3506(last sentence). |
| | 31:331. | R.S. § 3523. |
| | 31:334. | R.S. § 3525. |
| 5122(b) ..... | 31:332. | R.S. § 3524; Jan. 14, 1875, ch. 15, § 2(words before comma), 18 Stat. 296; Mar. 1, 1881, ch. 95, 21 Stat. 374; Mar. 3, 1887, ch. 396, § 3, 24 Stat. 635. |
| 5122(c) ..... | 31:357. | R.S. § 3544. |
| | 31:358(2d sentence). | R.S. § 3545; June 19, 1878, ch. 329, § 1(last par. 1st sentence words before 1st semicolon under heading ''Mint at Denver, Colorado''), 20 Stat. 191. |
| 5122(d) ..... | 31:358(1st, last sentences). | |

In subsection (a), the words ''Secretary of the Treasury'' are substituted for ''he'' in 31:273(last sentence) because of the source provisions restated in section 321 of the revised title. The words ''fineness, weight, and value of each deposit and bar'' and ''The value and the amount of charges . . . shall be based on the fineness and weight of the bullion'' are substituted for ''From the report of the assayer and the weight of the bullion'' for clarity and because of the restatement. The words ''or deductions, if any'' are omitted as being included in ''charges''. The word ''money'' is substituted for ''in coins'' for clarity. The text of 31:331 and 334 is omitted as unnecessary because of the restatement. The text of 31:273(last sentence words after 7th comma) is omitted because of the source provisions restated in section 321 of the revised title.

In subsection (b), the words ''Secretary shall impose a charge'' are substituted for ''shall be fixed, from time to time, by the director, with the concurrence of the Secretary of the Treasury'' because of the source provisions restated in section 321(c) of the revised title. The words ''for toughening when metals are contained in it which render it unfit for coinage'' are omitted as obsolete because the Secretary of the Treasury has authority to mint coins containing silver only under section 5112(e) of the revised title and the Secretary holds sufficient silver to mint those coins. See Sen. Rept. No. 91–1084 (1970).

In subsection (c), the words ''person designated by the depositor'' are substituted for ''his order'' for clarity. The words ''an unavoidable delay in determining the value of a deposit'' are substituted for ''delay in manipulating a refractory deposit, or for any other unavoidable cause'' in 31:357 for clarity.

In subsection (d), the words ''the Secretary to pay depositors'' are substituted for ''the several mints and assay offices of the United States to make returns to depositors'' because of the source provisions restated in section 321(c) of the revised title. The words ''when the state of the Treasury will admit thereof'' are omitted as surplus. The words ''under such rules and regulations as may be prescribed by the said Secretary'' are omitted as unnecessary because of section 321(b) of the revised title. The text of 31:358(last sentence) is omitted as surplus.

## SUBCHAPTER III—UNITED STATES MINT

AMENDMENTS

1992—Pub. L. 102–390, title II, § 225(b)(5), Oct. 6, 1992, 106 Stat. 1630, substituted ''UNITED STATES MINT'' for ''BUREAU OF THE MINT'' in subchapter heading.

### § 5131. Organization

(a) The United States Mint has—

(1) a United States mint at Philadelphia, Pennsylvania.

(2) a United States mint at Denver, Colorado.

(3) a United States mint at West Point, New York.

(4) a United States mint at San Francisco, California.

(b) The Secretary of the Treasury shall carry out duties and powers related to refining and assaying bullion, minting coins, striking medals, and numismatic items at the mints. However, until the Secretary decides that the mints are adequate for minting and striking an ample supply of coins and medals, the Secretary may use any facility of the United States Mint to mint coins and strike medals and to store coins and medals.

(c) Laws on mints, officers and employees of mints, and punishment of offenses related to mints and minting coins apply to assay offices, as applicable.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 988; Pub. L. 100–274, § 2(a)–(c)(2), Mar. 31, 1988, 102 Stat. 48; Pub. L. 102–390, title II, §§ 224, 225(b)(3), (4), Oct. 6, 1992, 106 Stat. 1629; Pub. L. 104–208, div. A, title I, § 101(f) [title V, §§ 503, 522], Sept. 30, 1996, 110 Stat. 3009–314, 3009–344, 3009–347; Pub. L. 104–329, title III, § 304, Oct. 20, 1996, 110 Stat. 4015.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5131(a) ..... | 31:251(1st sentence words after 1st comma). | R.S. § 343(1st sentence words after 1st comma). |
| | 31:261. | R.S. § 3495; restated July 11, 1962, Pub. L. 87–534, § 1, 76 Stat. 155. |
| 5131(b) ..... | 31:278. | R.S. § 3553. |
| | 31:283(1st sentence). | R.S. § 3558(1st sentence); July 11, 1962, Pub. L. 87–534, § 2, 76 Stat. 155; restated July 23, 1965, Pub. L. 89–81, § 201, 79 Stat. 256. |
| | 31:324f. | Oct. 18, 1973, Pub. L. 93–127, § 3, 87 Stat. 456. |
| | 31:361(1st sentence words before 1st comma). | June 19, 1878, ch. 329, § 1(1st sentence on p. 191), 20 Stat. 191. July 7, 1898, ch. 571(7th par. 1st sentence words before 1st comma under heading ''Mints and Assay Offices''), 30 Stat. 661. |
| 5131(c) ..... | 31:263. | R.S. § 3496; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| | 31:279. | R.S. § 3554; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| | 31:281. | R.S. § 3555; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384; June 6, 1972, Pub. L. 92–310, § 231(g), 86 Stat. 210. |
| 5131(d) ..... | 31:287. | R.S. § 3562. |
| 5131(e) ..... | 31:292. | Aug. 20, 1963, Pub. L. 88–102, § 2, 77 Stat. 129. |

In subsection (a), the words ''The Bureau of the Mint has'' are substituted for ''embracing in its organization and under its control all mints . . . and all assay offices'' in 31:251(1st sentence words after 1st comma) because of the restatement and to eliminate unnecessary words. The words ''for the manufacture of coin . . . for the stamping of bars, which have been, or which may be, authorized by law'' are omitted as superseded by the source provisions restated in subsection (b).

In subsection (b), the words ''The Secretary of the Treasury shall carry out duties and powers'' are added because of the source provisions restated in section 321 of the revised title. The words ''related to refining and assaying bullion, minting coins, striking medals, and numismatic items at the mints and assay offices'' are substituted for 31:278(1st sentence words before comma), 283(1st–26th words), and 361(1st sentence words before 1st comma) to eliminate unnecessary words and for consistency with the source provisions restated in sections 5111(a)(1)–(3) and 5120(a) of the revised title. The words ''and not coin'' in 31:278 are omitted as unnecessary because of the restatement. The words ''and no metals shall be purchased for minor coinage'' are omitted as superseded by section 5111(b) of the revised title. The text of 31:278(2d, last sentences) is omitted as obsolete because the Secretary of the Treasury has authority to mint coins containing silver only under section 5112(e) of the revised title and the Secretary holds sufficient silver to mint those coins. See Sen. Rept. No. 91–1084 (1970). The words ''except that until the Secretary of the Treasury determines that the mints of the United States are adequate for the production of ample supplies of coins, its facilities may be used for the production of coins'' in 31:283(1st sentence) are omitted as superseded by the source provisions restated in the subsection. The words ''striking'' and ''strike'' are added for consistency with section 5111 of the revised title.

In subsection (c), the text of 31:281(words before semicolon) is omitted as superseded by the source provisions restated in section 321 of the revised title, and 31:281(words after semicolon) is omitted as superseded by the source provisions restated in subsection (d) and by 5:ch. 35, subch. II.

In subsection (e), the words ''the mint at Philadelphia'' are substituted for ''any building constructed pursuant to this subchapter'' because that is the building that was constructed under the subchapter.

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104–208, § 101(f) [title V, §§ 503, 522], and Pub. L. 104–329, amended section identically, redesignating subsec. (d) as (c) and striking out former subsec. (c) which read as follows: ''Each mint has a superintendent and an assayer appointed by the President, by and with the advice and consent of the Senate. The mint at Philadelphia has an engraver appointed by the President, by and with the advice and consent of the Senate.''

1992—Subsec. (a). Pub. L. 102–390, § 225(b)(3), substituted ''United States Mint'' for ''Bureau of the Mint'' in introductory provisions.

Subsec. (b). Pub. L. 102–390, § 225(b)(4), substituted ''United States Mint'' for ''Bureau''.

Subsec. (e). Pub. L. 102–390, § 224, struck out subsec. (e) which read as follows: ''The Secretary shall operate, maintain, and have custody of, the mint at Philadelphia. However, the Administrator of General Services shall make repairs and improvements to the mint.''

1988—Subsec. (a)(3). Pub. L. 100–274, § 2(b), substituted ''mint at West Point, New York'' for ''assay office at New York, New York''.

Subsec. (a)(4). Pub. L. 100–274, § 2(a), substituted ''mint'' for ''assay office''.

Subsec. (b). Pub. L. 100–274, § 2(c)(1), struck out ''and assay offices, except that only bars may be made at the assay offices'' before period at end of first sentence.

Subsec. (c). Pub. L. 100–274, § 2(c)(2), substituted ''Each mint has'' for ''Each mint and the assay office at New York have''.

AUTHORITY OF SPECIAL POLICE OFFICERS

For authority of special police officers of United States Mint over buildings and land under control and in vicinity of the Mint and to protection in transit of bullion, coins, dies, and other property and assets of the Mint, see section 101(f) [title V, § 517(2), (3)] of Pub. L. 104–208, set out as a note under section 5141 of this title.

**§ 5132. Administrative**

(a)(1) Except as provided in this chapter, the Secretary of the Treasury shall deposit in the Treasury as miscellaneous receipts amounts the Secretary receives from the operations of the United States Mint. Expenditures made from appropriated funds which are subsequently determined to be properly chargeable to the Numismatic Public Enterprise Fund established by section 5134 shall be reimbursed by such Fund to the appropriation. The Secretary shall annually sell to the public, directly and by mail, sets of uncirculated and proof coins minted under paragraphs (1) through (6) of section 5112(a) of this title, and shall solicit such sales through the use of the customer list of the United States Mint. Except with respect to amounts deposited in the Numismatic Public Enterprise Fund in accordance with section 5134, the Secretary may not use amounts the Secretary receives from profits on minting coins or from charges on gold or silver bullion under section 5122 to pay officers and employees.

(2)(A) In addition to the coins described in paragraph (1), the Secretary shall sell annually to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a).

(B) Notwithstanding any other provision of law, for purposes of this paragraph—

(i) the coins described in paragraphs (2) through (4) of section 5112(a) shall be made of an alloy of 90 percent silver and 10 percent copper; and

(ii) all coins minted under this paragraph shall have a mint mark indicating the place of manufacture.

(C) All coins minted under this paragraph shall be considered to be—

(i) numismatic items for purposes of paragraph (1) and section 5111(a)(3); and

(ii) legal tender, as provided in section 5103.

(D) The Secretary shall obtain silver for coins minted under this paragraph by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). At such time as the silver stockpile is depleted, the Secretary shall obtain silver for such coins by purchase of silver mined from natural deposits in the United States or in a territory or possession of the United States not more than 1 year following the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for such silver. The Secretary may issue such regulations as may be necessary to carry out this subparagraph.

(3) Not more than $54,208,000 may be appropriated to the Secretary for the fiscal year ending on September 30, 1993, to pay costs of the mints. Not more than $965,000 of amounts appropriated pursuant to the preceding sentence shall remain available until expended for research and development.

(b) To the extent the Secretary decides is necessary, the Secretary may use amounts received from depositors for refining bullion and the proceeds from the sale of byproducts (including spent acids from surplus bullion recovered in refining processes) to pay the costs of refining the bullion (including labor, material, waste, and loss on the sale of sweeps). The Secretary may not use amounts appropriated for the mints to pay those costs.

(c) The Secretary shall make an annual report at the end of each fiscal year on the operation of the United States Mint.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 988; Pub. L. 97–452, § 1(21), Jan. 12, 1983, 96 Stat. 2477; Pub. L. 98–151, § 123, Nov. 14, 1983, 97 Stat. 979; Pub. L. 98–216, § 1(7), Feb. 14, 1984, 98 Stat. 4; Pub. L. 99–61, title II, § 204, July 9, 1985, 99 Stat. 116; Pub. L. 99–185, § 2(e), Dec. 17, 1985, 99 Stat. 1178; Pub. L. 100–274, §§ 1, 2(c)(3), Mar. 31, 1988, 102 Stat. 48; Pub. L. 101–585, § 2, Nov. 15, 1990, 104 Stat. 2874; Pub. L. 102–390, title II, §§ 211, 221(c)(1), 225(b)(3), (4), Oct. 6, 1992, 106 Stat. 1624, 1628, 1629; Pub. L. 106–445, § 2(a), Nov. 6, 2000, 114 Stat. 1931.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5132(a) ..... | 31:273(1st, 2d sentences). | R.S. § 3506(1st, 2d sentences). |
| | 31:369. | R.S. § 3552; restated May 10, 1950, ch. 172, 64 Stat. 157; Sept. 5, 1962, Pub. L. 87–643, § 2, 76 Stat. 440; Aug. 13, 1981, Pub. L. 97–35, § 382(b)(1), 95 Stat. 432. |
| 5132(b) ..... | 31:361(1st sentence words after 1st comma, last sentence). | June 19, 1878, ch. 329, § 1(2d sentence words before last semicolon on p. 191), 20 Stat. 191. July 7, 1898, ch. 571(7th par. 1st sentence words after 1st comma, last sentence under heading ''Mints and Assay Offices''), 30 Stat. 661. |
| 5132(c) ..... | 31:253. | R.S. § 345. |

In subsection (a)(1), the words ''Secretary of the Treasury shall deposit in the Treasury as miscellaneous receipts'' are substituted for ''shall . . . be covered into the Treasury'' in 31:369 because of the source provisions restated in section 321(c) of the revised title. The words ''amounts the Secretary receives from the operations of the Bureau of the Mint'' are substituted for ''The money arising from all charges and deductions on and from gold and silver bullion and from all other sources'' for clarity and to eliminate unnecessary words. The words ''amounts from'' are substituted for ''money arising from the manufacture and sale of'' to eliminate unnecessary words. The words ''numismatic items'' are substituted for ''medals, proof coins, and uncirculated coins'' for consistency with section 5111(a)(3) of the revised title. The words ''minting coins'' are substituted for ''silver or minor coinage'' for consistency with section 5112 of the revised title. The words ''made by law'' are omitted as surplus. The words ''on estimates furnished by the Secretary of the Treasury'' are omitted because of section 1108 of the revised title. The text of 31:273(1st, 2d sentences) is omitted because of section 321 of the revised title and the other source provisions restated in this chapter.

In subsection (a)(2), the words ''ending September 30'' are added for clarity and consistency in the revised title. The words ''to pay costs'' are substituted for ''for all expenditures (salaries and expenses)'' for consistency in the revised title and to eliminate unnecessary words. The words ''not herein otherwise provided for'' are omitted as surplus.

In subsection (b), the word ''refining'' is substituted for ''parting and refining'' for consistency in the revised chapter. The words ''mints and assay offices'' are substituted for ''coinage mints and assay office at New York'' because of the source provisions restated in section 5131(b) of the revised title. The words ''pursuant to law'' are omitted as surplus.

In subsection (c), the text of 31:253(less 18th–38th words) is omitted as superseded by the source provisions restated in section 321(c) of the revised title.

1983 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5132(a)(2) | 31 App.:369. | Sept. 8, 1982, Pub. L. 97–253, § 202, 96 Stat. 790. |

1984 ACT

This is necessary because the language was restated by section 382(h)(1) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 432) but inadvertently codified as 31:5132(a)(1) (last sentence) by section 1 of the Act of September 13, 1982 (Pub. L. 97–258, 96 Stat. 989.)

REFERENCES IN TEXT

The Strategic and Critical Materials Stock Piling Act, referred to in subsec. (a)(2)(D), is act June 7, 1939, ch. 190, as revised generally by Pub. L. 96–41, § 2, July 30, 1979, 93 Stat. 319, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see section 98 of Title 50 and Tables.

AMENDMENTS

2000—Subsec. (a)(2)(B)(i). Pub. L. 106–445 substituted ''paragraphs (2)'' for ''paragraphs (1)''.

1992—Subsec. (a)(1). Pub. L. 102–390, § 225(b)(3), substituted ''United States Mint'' for ''Bureau of the Mint'' in two places.

Pub. L. 102–390, § 221(c)(1)(A), amended second sentence generally. Prior to amendment, second sentence read as follows: ''However, amounts from numismatic items shall be reimbursed to the current appropriation used to pay the cost of preparing and selling the items.''

Pub. L. 102–390, § 221(c)(1)(B), amended last sentence generally. Prior to amendment, last sentence read as follows: ''The Secretary may not use amounts the Secretary receives from profits on minting coins or from charges on gold or silver bullion under section 5122 of this title to pay officers and employees.''

Subsec. (a)(3) to (5). Pub. L. 102–390, § 211, which directed the substitution of ''$54,208,000'' for ''$46,511,000'' and ''1993'' for ''1988'' in par. (2), and the striking out of pars. (3) and (4), was executed by making the substitution in par. (3) and striking out pars. (4) and (5) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 101–585 redesignating pars. (2) to (4) as (3) to (5). See 1990 Amendment note below. Prior to being struck out, par. (4) provided that not more than $75,000 be expended for purpose of hosting International Mint Directors' Conference in the United States in 1988, and par. (5) authorized Director of the Mint to collect from participants at Conference reasonable fees and assessments in connection with Conference, administer such amounts, and spend such amounts to pay expenses incurred in connection with Conference.

Subsec. (c). Pub. L. 102–390, § 225(b)(4), substituted ''United States Mint'' for ''Bureau''.

1990—Subsec. (a)(2) to (5). Pub. L. 101–585 added par. (2), redesignated former pars. (2) to (4) as (3) to (5), respectively, and substituted ''(3)'' for ''(2)'' in par. (4).

1988—Subsec. (a)(2) to (4). Pub. L. 100–274, § 1, added pars. (2) to (4) and struck out former par. (2) which read as follows: ''Not more than $50,165,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1983, to pay costs of the mints and assay offices.''

Subsec. (b). Pub. L. 100–274, § 2(c)(3), struck out ''and assay offices'' after ''amounts appropriated for the mints'' in last sentence.

1985—Subsec. (a)(1). Pub. L. 99–185 inserted ''paragraphs (1) through (6) of'' before ''section 5112(a) of this title''.

Pub. L. 99–61 inserted ''minted under section 5112(a) of this title'' after ''proof coins''.

1984—Subsec. (a)(1). Pub. L. 98–216 struck out provision requiring the Secretary to pay the costs of the mints and assay offices not provided for in this subsection out of appropriations.

1983—Subsec. (a)(1). Pub. L. 98–151 inserted provisions relating to authority of Secretary to sell sets of uncirculated and proof coins and solicitation of such sales through the customer lists of the Bureau of the Mint.

Subsec. (a)(2). Pub. L. 97–452 substituted ''$50,165,000'' for ''$54,706,000'', and ''1983'' for ''1982''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 221(e) of Pub. L. 102–390 provided that: ''The amendments made by this section [enacting section 5134 of this title, amending this section, amending and repealing provisions set out as notes under section 5112 of this title] shall apply with respect to fiscal years beginning after fiscal year 1992.''

EFFECTIVE DATE OF 1985 AMENDMENTS

Amendment by Pub. L. 99–185 effective Oct. 1, 1985, except that no coins may be issued or sold under section 5112(i) of this title before Oct. 1, 1986, see section 3 of Pub. L. 99–185, set out as a note under section 5112 of this title.

Amendment by Pub. L. 99–61 effective Oct. 1, 1985, with exception as to issuance or sale of coins under section 5112(e) of this title, see section 205 of Pub. L. 99–61, set out as a note under section 5112 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.

TERMINATION OF NUMISMATIC PUBLIC ENTERPRISE FUND

All assets and liabilities of Numismatic Public Enterprise Fund transferred to United States Mint Public Enterprise Fund and Numismatic Public Enterprise Fund to cease to exist as separate fund as its activities and functions are subsumed under and subject to United States Mint Public Enterprise Fund, see section 5136 of this title.

## § 5133. Settlement of accounts

(a) The Secretary of the Treasury shall—

(1) charge the superintendent of each mint with the amount in weight of standard metal of bullion the superintendent receives from the Secretary;

(2) credit each superintendent with the amount in weight of coins, clippings, and other bullion the superintendent returns to the Secretary; and

(3) charge separately to each superintendent, who shall account for, copper to be used in the alloy of gold and silver bullion.

(b) SETTLEMENT OF ACCOUNTS.—

(1) IN GENERAL.—At least once each year, the Secretary of the Treasury shall settle the accounts of the superintendents of the mints.

(2) PROCEDURE.—At any settlement under this subsection, the superintendent shall—

(A) return to the Secretary any coin, clipping, or other bullion in the possession of the superintendent; and

(B) present the Secretary with a statement of bullion received and returned since the last settlement (including any bullion returned for settlement).

(3) AUDIT.—The Secretary shall—

(A) audit the accounts of each superintendent; and

(B) allow each superintendent the waste of precious metals that the Secretary determines is necessary—

(i) for refining and minting (within the limitations which the Secretary shall prescribe); and

(ii) for casting fine gold and silver bars (within the limit prescribed for refining), except that any waste allowance under this clause may not apply to deposit operations.

(c) After settlement, the Secretary shall compare the amount of gold and silver bullion and coins on hand with the total liabilities of the mints. The Secretary also shall make a statement of the ordinary expense account.

(d) The Secretary shall procure for each mint a series of standard weights corresponding to the standard troy pound of the National Institute of Standards and Technology of the Department of Commerce. The series shall include a one pound weight and multiples and subdivisions of one pound from .01 grain to 25 pounds. At least once a year, the Secretary shall test the weights normally used in transactions at the mints against the standard weights.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 989; Pub. L. 100–274, § 2(c)(4)–(7), (9), (10), Mar. 31, 1988, 102 Stat. 49; Pub. L. 100–418, title V, § 5115(c), Aug. 23, 1988, 102 Stat. 1433.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5133(a) ..... | 31:354(1st sentence). | R.S. § 3541; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384. |
| | 31:355(last sentence). | R.S. § 3542; Aug. 23, 1912, ch. 350, § 1(last par. words before 7th comma under heading ''Assay Office at Salt Lake City, Utah''), 37 Stat. 384; July 23, 1965, Pub. L. 89–81, § 207, 79 Stat. 257. |
| 5133(b) ..... | 31:283(2d, last sentences). | R.S. § 3558(2d, last sentences); restated July 11, 1962, Pub. L. 87–534, § 2, 76 Stat. 155. |
| | 31:354(last sentence). | |
| | 31:355(1st, 2d sentences). | |
| 5133(c) ..... | 31:356. | R.S. § 3543. |
| 5133(d) ..... | 31:365. | R.S. § 3549; restated Mar. 4, 1911, ch. 268, § 2, 36 Stat. 1354. |

In the section, the word ''Secretary'' is substituted for ''superintendent'' and ''Director of the Mint'' in 31:354, 356, 365, and the word ''Superintendent'' is substituted for ''superintendent of coining department'' in 31:354 and 355 and ''superintendent of melting and refining'', because of the source provisions restated in section 321(c) of the revised title.

In subsection (a), the words ''superintendent of each mint and the assay office at New York and the officer in charge of the assay office at San Francisco'' are added because of the source provisions restated in section 5131(b) and (c) of the revised title.

In subsection (b), before clause (1), the words ''shall settle'' are substituted for ''and at such time as the . . . shall appoint, there shall be an accurate and full settlement'' in 31:354(last sentence) to eliminate unnecessary words. In clause (1), the words ''The Secretary shall audit'' are substituted for ''When all the coins, clippings, and other bullion have been delivered to the superintendent, it shall be his duty to examine'' in 31:355(1st, 2d sentences) to eliminate unnecessary words. In clause (2), the words ''the waste of precious metals . . . decides is necessary for refining and minting'' are substituted for ''The difference between the amount charged and credited to each officer . . . as necessary wastage, if . . . shall be satisfied that there has been a bona fide waste of the precious metals'' for consistency in the subsection and to eliminate unnecessary words. In clause (3), the words ''limitations prescribed for refining'' are substituted for ''that provided for the melter and refiner'' in 31:283(2d, last sentences) for consistency in the subsection. The word ''bona fide'' is omitted as being included in ''necessary''.

In subsection (c), the words ''It shall also be the duty of the superintendent to forward a correct statement of his balance sheet'' are omitted as superseded by the source provisions restated in section 321(c) of the revised title. The words ''mints and assay offices'' are substituted for ''mint'' for consistency in the section.

In subsection (d), the words ''National Bureau of Standards of the Department of Commerce'' are substituted for ''Bureau of Standards of the United States'' because of 15:1511. The words ''from .01 grain'' are substituted for ''from the hundredths part of a grain'' for consistency. The words ''under the inspection of the superintendent and assayer'' are omitted as superseded by the source provisions restated in section 321(c) of the revised title. The words ''and the accuracy of those used at the mint at Philadelphia shall be tested annually in the presence of the assay commissioners, at the time of the annual examination and test of coins'' are omitted because the position of assay commissioner was abolished by section 201 of the Act of March 14, 1980 (Pub. L. 96–209, 94 Stat. 98).

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–274, § 2(c)(4), substituted ''each mint'' and ''superintendent receives'' for ''each mint and the assay office at New York and the officer in charge of the assay office at San Francisco'' and ''superintendent or officer receives'', respectively.

Subsec. (a)(2). Pub. L. 100–274, § 2(c)(5), substituted ''credit each superintendent with the amount'' and ''superintendent returns'' for ''credit each superintendent and the officer with the amount'' and ''superintendent or officer returns'', respectively.

Subsec. (a)(3). Pub. L. 100–274, § 2(c)(6), substituted ''superintendent, who'' for ''superintendent and the officer, who''.

Subsec. (b). Pub. L. 100–274, § 2(c)(7), inserted heading and amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''At least once a year, the Secretary shall settle the accounts of the superintendents and the officer in charge. At settlement, each superintendent and the officer shall return to the Secretary coins, clippings, and other bullion in their possession with a statement of bullion received and returned since the last settlement (including bullion returned for settlement). The Secretary shall—

''(1) audit the accounts and statements of each superintendent and the officer;

''(2) allow each superintendent the waste of precious metals, within limitations prescribed by the Secretary, that the Secretary decides is necessary for refining and minting; and

''(3) allow the officer the waste, within the limitations prescribed for refining, that the Secretary decides is necessary in casting fine gold and silver bars, except that the waste allowance may not apply to deposit operations.''

Subsec. (c). Pub. L. 100–274, § 2(c)(9), struck out ''and assay offices'' after ''total liabilities of the mints''.

Subsec. (d). Pub. L. 100–418 substituted ''National Institute of Standards and Technology'' for ''National Bureau of Standards''.

Pub. L. 100–274, § 2(c)(10), struck out ''and assay office'' after ''procure for each mint'' and ''and assay offices'' after ''transactions at the mints''.

## § 5134. Numismatic Public Enterprise Fund

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

(1) FUND.—The term ''Fund'' means the Numismatic Public Enterprise Fund.

(2) MINT.—The term ''Mint'' means the United States Mint.

(3) NUMISMATIC ITEM.—The term ''numismatic item'' means any medal, proof coin, uncirculated coin, bullion coin, or other coin specifically designated by statute as a numismatic item, including products and accessories related to any such medal, coin, or item.

(4) NUMISMATIC OPERATIONS AND PROGRAMS.—The term ''numismatic operations and programs''—

(A) means the activities concerning, and assets utilized in, the production, administration, sale, and management of numismatic items and the Numismatic Public Enterprise Fund; and

(B) includes capital, personnel salaries, functions relating to operations, marketing, distribution, promotion, advertising, and official reception and representation, the acquisition or replacement of equipment, and the renovation or modernization of facilities (other than the construction or acquisition of new buildings).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(b) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a revolving Numismatic Public Enterprise Fund consisting of amounts deposited in the fund[1] under subsection (c)(2) of this section or section 221(b) of the United States Mint Reauthorization and Reform Act of 1992 which shall be available to the Secretary for numismatic operations and programs of the United States Mint without fiscal year limitation.

(c) OPERATIONS OF THE FUND.—

(1) PAYMENT OF EXPENSES.—Any expense incurred by the Secretary for numismatic operations and programs which the Secretary determines, in the Secretary's sole discretion, to be ordinary and reasonable incidents of the numismatic business shall be paid out of the Fund, including any expense incurred pursuant to any obligation or other commitment of Mint numismatic operations and programs which was entered into before the beginning of fiscal year 1993.

(2) DEPOSIT OF RECEIPTS.—All receipts from numismatic operations and programs shall be deposited into the Fund, including amounts attributable to any surcharge imposed with respect to the sale of any numismatic item.

(3) TRANSFER OF SEIGNIORAGE.—The Secretary shall transfer monthly from the Fund to the general fund of the Treasury an amount equal to the total amount on the seigniorage of numismatic items sold since the date of any preceding transfer.

(4) TRANSFER OF EXCESS AMOUNTS TO THE TREASURY.—

(A) IN GENERAL.—At such times as the Secretary determines to be appropriate, the Secretary shall transfer any amount in the Fund which the Secretary determines to be in excess of the amount required by the Fund to the Treasury for deposit as miscellaneous receipts.

(B) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Congress containing—

(i) a statement of the total amount transferred to the Treasury pursuant to subparagraph (A) during the period covered by the report;

(ii) a statement of the amount by which the amount on deposit in the Fund at the end of the period covered by the report exceeds the estimated operating costs of the Fund for the 1-year period beginning at the end of such period; and

(iii) an explanation of the specific purposes for which such excess amounts are being retained in the Fund.

(d) BUDGET TREATMENT.—

(1) IN GENERAL.—The Secretary shall prepare budgets for the Fund, and estimates and statements of financial condition of the Fund in accordance with the requirements of section 9103 which shall be submitted to the President for inclusion in the budget submitted under section 1105.

(2) INCLUSION IN ANNUAL REPORT.—Statements of the financial condition of the Fund shall be included in the Secretary's annual report on the operation of the Mint.

(3) TREATMENT AS WHOLLY OWNED GOVERNMENT CORPORATION FOR CERTAIN PURPOSES.—Section 9104 shall apply to the Fund to the same extent such section applies to wholly owned Government corporations.

(e) FINANCIAL STATEMENTS, AUDITS, AND REPORTS.—

(1) ANNUAL FINANCIAL STATEMENT REQUIRED.—By the end of each calendar year, the Secretary shall prepare an annual financial statement of the Fund for the fiscal year which ends during such calendar year.

(2) CONTENTS OF FINANCIAL STATEMENT.—Each statement prepared pursuant to paragraph (1) shall, at a minimum, contain—

(A) the overall financial position (including assets and liabilities) of the Fund as of the end of the fiscal year;

(B) the results of the numismatic operations and programs of the Fund during the fiscal year;

(C) the cash flows or the changes in financial position of the Fund;

(D) a reconciliation of the financial statement to the budget reports of the Fund; and

(E) a supplemental schedule detailing—

(i) the costs and expenses for the production, for the marketing, and for the distribution of each denomination of circulating coins produced by the Mint during the fiscal year and the per-unit cost of producing, of marketing, and of distributing each denomination of such coins; and

(ii) the gross revenue derived from the sales of each such denomination of coins.

(3) ANNUAL AUDITS.—

(A) IN GENERAL.—Each annual financial statement prepared under paragraph (1) shall be audited—

(i) by—

[1] So in original. Probably should be capitalized.

(I) an independent external auditor; or

(II) the Inspector General of the Department of the Treasury,

as designated by the Secretary; and

(ii) in accordance with the generally accepted Government auditing standards issued by the Comptroller General of the United States.

(B) AUDITOR'S REPORT REQUIRED.—The auditor designated to audit any financial statement of the Fund pursuant to subparagraph (A) shall submit a report—

(i) to the Secretary by March 31 of the year beginning after the end of the fiscal year covered by such financial statement; and

(ii) containing the auditor's opinion on—

(I) the financial statement of the Fund;

(II) the internal accounting and administrative controls and accounting systems of the Fund; and

(III) the Fund's compliance with applicable laws and regulations.

(4) ANNUAL REPORT ON FUND.—

(A) REPORT REQUIRED.—By April 30 of each year, the Secretary shall submit a report on the Fund for the most recently completed fiscal year to the President, the Congress, and the Director of the Office of Management and Budget.

(B) CONTENTS OF ANNUAL REPORT.—The annual report required under subparagraph (A) for any fiscal year shall include—

(i) the financial statement prepared under paragraph (1) for such fiscal year;

(ii) the audit report submitted to the Secretary pursuant to paragraph (3)(B) for such fiscal year;

(iii) a description of activities carried out during such fiscal year;

(iv) a summary of information relating to numismatic operations and programs contained in the reports on systems on internal accounting and administrative controls and accounting systems submitted to the President and the Congress under section 3512(c);

(v) a summary of the corrective actions taken with respect to material weaknesses relating to numismatic operations and programs identified in the reports prepared under section 3512(c);

(vi) any other information the Secretary considers appropriate to fully inform the Congress concerning the financial management of the Fund; and

(vii) a statement of the total amount of excess funds transferred to the Treasury.

(5) MARKETING REPORT.—

(A) REPORT REQUIRED FOR 10 YEARS.—For each fiscal year beginning before fiscal year 2003, the Secretary shall submit an annual report on all marketing activities and expenses of the Fund to the Congress before the end of the 3-month period beginning at the end of such fiscal year.

(B) CONTENTS OF REPORT.—The report submitted pursuant to subparagraph (A) shall contain a detailed description of—

(i) the sources of income including surcharges; and

(ii) expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

(f) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—

(1) PAYMENT OF SURCHARGES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund[1] to any designated recipient organization unless—

(i) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

(ii) the designated recipient organization submits an audited financial statement that demonstrates, to the satisfaction of the Secretary, that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount that is equal to or greater than the total amount of the proceeds of such surcharge derived from the sale of such numismatic item.

(B) UNPAID AMOUNTS.—If any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item that may otherwise be paid from the fund,[1] under any provision of law relating to such numismatic item, to any designated recipient organization remains unpaid to such organization solely by reason of the matching fund requirement contained in subparagraph (A)(ii) after the end of the 2-year period beginning on the later of—

(i) the last day any such numismatic item is issued by the Secretary; or

(ii) the date of the enactment of the American 5-Cent Coin Design Continuity Act of 2003,

such unpaid amount shall be deposited in the Treasury as miscellaneous receipts.

(2) ANNUAL AUDITS.—

(A) ANNUAL AUDITS OF RECIPIENTS REQUIRED.—Each designated recipient organization that receives any payment from the fund[1] of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such amount, for an annual audit, in accordance with generally accepted government auditing standards by an independent public accountant selected by the organization, of all such payments to the organization beginning in the first fiscal year of the organization in which any such amount is received and continuing until all amounts received by such organization from the fund[1] with respect to such surcharges are fully expended or placed in trust.

(B) MINIMUM REQUIREMENTS FOR ANNUAL AUDITS.—At a minimum, each audit of a des-

ignated recipient organization pursuant to subparagraph (A) shall report—

(i) the amount of payments received by the designated recipient organization from the fund[1] during the fiscal year of the organization for which the audit is conducted that are derived from the proceeds of any surcharge imposed on the sale of any numismatic item;

(ii) the amount expended by the designated recipient organization from the proceeds of such surcharges during the fiscal year of the organization for which the audit is conducted; and

(iii) whether all expenditures by the designated recipient organization during the fiscal year of the organization for which the audit is conducted from the proceeds of such surcharges were for authorized purposes.

(C) RESPONSIBILITY OF ORGANIZATION TO ACCOUNT FOR EXPENDITURES OF SURCHARGES.—Each designated recipient organization that receives any payment from the fund[1] of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall take appropriate steps, as a condition for receiving any such payment, to ensure that the receipt of the payment and the expenditure of the proceeds of such surcharge by the organization in each fiscal year of the organization can be accounted for separately from all other revenues and expenditures of the organization.

(D) SUBMISSION OF AUDIT REPORT.—Not later than 90 days after the end of any fiscal year of a designated recipient organization for which an audit is required under subparagraph (A), the organization shall—

(i) submit a copy of the report to the Secretary of the Treasury; and

(ii) make a copy of the report available to the public.

(E) USE OF SURCHARGES FOR AUDITS.—Any designated recipient organization that receives any payment from the fund[1] of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may use the amount received to pay the cost of an audit required under subparagraph (A).

(F) WAIVER OF PARAGRAPH.—The Secretary of the Treasury may waive the application of any subparagraph of this paragraph to any designated recipient organization for any fiscal year after taking into account the amount of surcharges that such organization received or expended during such year.

(G) NONAPPLICABILITY TO FEDERAL ENTITIES.—This paragraph shall not apply to any Federal agency or department or any independent establishment in the executive branch that receives any payment from the fund[1] of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item.

(H) AVAILABILITY OF BOOKS AND RECORDS.—An organization that receives any payment from the fund[1] of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such payment, to the Inspector General of the Department of the Treasury or the Comptroller General of the United States, upon the request of such Inspector General or the Comptroller General, all books, records, and work papers belonging to or used by the organization, or by any independent public accountant who audited the organization in accordance with subparagraph (A), which may relate to the receipt or expenditure of any such amount by the organization.

(3) USE OF AGENTS OR ATTORNEYS TO INFLUENCE COMMEMORATIVE COIN LEGISLATION.—No portion of any payment from the fund[1] to any designated recipient organization of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may be used, directly or indirectly, by the organization to compensate any agent or attorney for services rendered to support or influence in any way legislative action of the Congress relating to such numismatic item.

(4) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this subsection, the term ''designated recipient organization'' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.

(g) QUARTERLY FINANCIAL REPORTS.—

(1) IN GENERAL.—Not later than the 30th day of each month following each calendar quarter through and including the final period of sales with respect to any commemorative coin program authorized on or after the date of enactment of the Treasury, Postal Service, and General Government Appropriations Act, 1997, the Mint shall submit to the Congress a quarterly financial report in accordance with this subsection.

(2) REQUIREMENTS.—Each report submitted under paragraph (1) shall include, with respect to the calendar quarter at issue—

(A) a detailed financial statement, prepared in accordance with generally accepted accounting principles, that includes financial information specific to that quarter, as well as cumulative financial information relating to the entire program;

(B) a detailed accounting of—

(i) all costs relating to marketing efforts;

(ii) all funds projected for marketing use;

(iii) all costs for employee travel relating to the promotion of commemorative coin programs;

(iv) all numismatic items minted, sold, not sold, and rejected during the production process; and

(v) the costs of melting down all rejected and unsold products;

(C) adequate market-based research for all commemorative coin programs; and

(D) a description of the efforts of the Mint in keeping the sale price of numismatic items as low as practicable.

(Added Pub. L. 102–390, title II, § 221(a), Oct. 6, 1992, 106 Stat. 1624; amended Pub. L. 104–208, div.

A, title I, § 101(f) [title V, § 529(b)(1), (2), (c)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–349, 3009–350, 3009–352; Pub. L. 106–445, § 3, Nov. 6, 2000, 114 Stat. 1931; Pub. L. 108–15, title I, § 103(d)(2), title II, § 201(a), Apr. 23, 2003, 117 Stat. 619.)

REFERENCES IN TEXT

Section 221(b) of the United States Mint Reauthorization and Reform Act of 1992, referred to in subsec. (b), is section 221(b) of Pub. L. 102–390, which is set out below.

The date of the enactment of the American 5-Cent Coin Design Continuity Act of 2003, referred to in subsec. (f)(1)(B)(ii), is the date of enactment of Pub. L. 108–15, which was approved Apr. 23, 2003.

The date of enactment of the Treasury, Postal Service, and General Government Appropriations Act, 1997, referred to in subsec. (g)(1), is the date of enactment of section 101(f) of title I of div. A of Pub. L. 104–208, which was approved Sept. 30, 1996.

AMENDMENTS

2003—Subsec. (c)(4), (5). Pub. L. 108–15, § 103(d)(2), redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: ''For purposes of paragraph (1), any expense incurred by the Secretary in connection with the Citizens Commemorative Coin Advisory Committee established under section 5135 shall be treated as an expense incurred for numismatic operations and programs which is an ordinary and reasonable incident of the numismatic business.''

Subsec. (f)(1). Pub. L. 108–15, § 201(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

''(A) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

''(B) the designated recipient organization submits an audited financial statement that demonstrates to the satisfaction of the Secretary of the Treasury that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount that is equal to or greater than the maximum amount the organization may receive from the proceeds of such surcharge.''

2000—Subsec. (e)(2). Pub. L. 106–445, § 3(1), substituted ''contain'' for ''reflect'' in introductory provisions.

Subsec. (e)(2)(E). Pub. L. 106–445, § 3(2)–(4), added subpar. (E).

1996—Subsec. (c)(2). Pub. L. 104–208, § 101(f) [title V, § 529(b)(1)], inserted '', including amounts attributable to any surcharge imposed with respect to the sale of any numismatic item'' before period at end.

Subsec. (f). Pub. L. 104–208, § 101(f) [title V, § 529(b)(2)], added subsec. (f).

Subsec. (g). Pub. L. 104–208, § 101(f) [title V, § 529(c)], added subsec. (g).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–15, title II, § 201(b), Apr. 23, 2003, 117 Stat. 620, provided that: ''The amendment made by subsection (a) [amending this section] shall apply as of the date of the enactment of Public Law 104–208 [Sept. 30, 1996].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(f) [title V, § 529(b)(3)] of Pub. L. 104–208 provided that: ''The amendments made by this section [probably should be this subsection, amending this section] shall apply with respect to the proceeds of any surcharge imposed on the sale of any numismatic item that are deposited in the Numismatic Public Enterprise Fund after the date of the enactment of this Act [Sept. 30, 1996].''

EFFECTIVE DATE

Section applicable with respect to fiscal years beginning after fiscal year 1992, see section 221(e) of Pub. L. 102–390, set out as an Effective Date of 1992 Amendment note under section 5132 of this title.

TERMINATION OF NUMISMATIC PUBLIC ENTERPRISE FUND

All assets and liabilities of Numismatic Public Enterprise Fund transferred to United States Mint Public Enterprise Fund and Numismatic Public Enterprise Fund to cease to exist as separate fund as its activities and functions are subsumed under and subject to United States Mint Public Enterprise Fund, see section 5136 of this title.

INITIAL FUNDING OF FUND FROM EXISTING NUMISMATIC OPERATIONS

Section 221(b) of Pub. L. 102–390 provided that:

''(1) IN GENERAL.—As soon as practicable after the end of fiscal year 1992, the Secretary of the Treasury shall transfer to the Fund—

''(A) from the Mint's numismatic profits for such fiscal year, an amount which the Secretary determines to be necessary—

''(i) to meet existing numismatic liabilities and obligations; and

''(ii) to provide working capital for Mint numismatic operations and programs; and

''(B) all numismatic receivables, and the numismatic operations and programs (including liabilities and other obligations) of the United States Mint, and the land and buildings of the San Francisco Mint, the Old San Francisco Mint, and the West Point Mint, capitalized at current book value as carried in the Mint combined statement of financial condition.

''(2) EXCESS AMOUNTS TO BE DEPOSITED IN THE GENERAL FUND.—That portion of the total amount of numismatic profits for fiscal year 1992 which remains after the transfer to the Fund pursuant to paragraph (1)(A) is made shall be deposited by the Secretary in the general fund of the Treasury as soon as practicable after the end of the fiscal year.

''(3) DEFINITIONS.—For purposes of paragraphs (1) and (2)—

''(A) NUMISMATIC PROFIT.—The term 'numismatic profit' means the amount which is equal to the proceeds (including seigniorage) from the sale of numismatic items minus the costs of numismatic operations and programs.

''(B) NUMISMATIC RECEIVABLE.—The term 'numismatic receivable' means any account receivable from numismatic operations and programs, including chargebacks, returned checks, amounts due from special order sales, and amounts due from consignment sales.

''(C) OTHER TERMS.—The terms 'Fund' and 'numismatic item' have the meaning given to such terms in the amendment made by subsection (a) [enacting this section].''

## § 5135. Citizens Coinage Advisory Committee

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established the Citizens Coinage Advisory Committee (in this section referred to as the ''Advisory Committee'') to advise the Secretary of the Treasury on the selection of themes and designs for coins.

(2) OVERSIGHT OF ADVISORY COMMITTEE.—The Advisory Committee shall be subject to the authority of the Secretary of the Treasury (hereafter in this section referred to as the ''Secretary'').

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 11 members appointed by the Secretary as follows:

(A) Seven persons appointed by the Secretary—

(i) one of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience as a nationally or internationally recognized curator in the United States of a numismatic collection;

(ii) one of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their experience in the medallic arts or sculpture;

(iii) one of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in American history;

(iv) one of whom shall be appointed from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience in numismatics; and

(v) three of whom shall be appointed from among individuals who can represent the interests of the general public in the coinage of the United States.

(B) Four persons appointed by the Secretary on the basis of the recommendations of the following officials who shall make the selection for such recommendation from among citizens who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience:

(i) One person recommended by the Speaker of the House of Representatives.

(ii) One person recommended by the minority leader of the House of Representatives.

(iii) One person recommended by the majority leader of the Senate.

(iv) One person recommended by the minority leader of the Senate.

(2) TERMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Committee shall be appointed for a term of 4 years.

(B) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed—

(i) four of the members appointed under paragraph (1)(A) shall be appointed for a term of 4 years;

(ii) the four members appointed under paragraph (1)(B) shall be appointed for a term of 3 years; and

(iii) three of the members appointed under paragraph (1)(A) shall be appointed for a term of 2 years.

(3) PRESERVATION OF PUBLIC ADVISORY STATUS.—No individual may be appointed to the Advisory Committee while serving as an officer or employee of the Federal Government.

(4) CONTINUATION OF SERVICE.—Each appointed member may continue to serve for up to 6 months after the expiration of the term of office to which such member was appointed until a successor has been appointed.

(5) VACANCY AND REMOVAL.—

(A) IN GENERAL.—Any vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made.

(B) REMOVAL.—Advisory Committee members shall serve at the discretion of the Secretary and may be removed at any time for good cause.

(6) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be appointed for a term of 1 year by the Secretary from among the members of the Advisory Committee.

(7) PAY AND EXPENSES.—Members of the Advisory Committee shall serve without pay for such service but each member of the Advisory Committee shall be reimbursed from the United States Mint Public Enterprise Fund for travel, lodging, meals, and incidental expenses incurred in connection with attendance of such members at meetings of the Advisory Committee in the same amounts and under the same conditions as employees of the United States Mint who engage in official travel, as determined by the Secretary.

(8) MEETINGS.—

(A) IN GENERAL.—The Advisory Committee shall meet at the call of the Secretary, the chairperson, or a majority of the members, but not less frequently than twice annually.

(B) OPEN MEETINGS.—Each meeting of the Advisory Committee shall be open to the public.

(C) PRIOR NOTICE OF MEETINGS.—Timely notice of each meeting of the Advisory Committee shall be published in the Federal Register, and timely notice of each meeting shall be made to trade publications and publications of general circulation.

(9) QUORUM.—Seven members of the Advisory Committee shall constitute a quorum.

(c) DUTIES OF THE ADVISORY COMMITTEE.—The duties of the Advisory Committee are as follows:

(1) Advising the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, congressional gold medals and national and other medals produced by the Secretary of the Treasury in accordance with section 5111 of title 31, United States Code.

(2) Advising the Secretary of the Treasury with regard to—

(A) the events, persons, or places that the Advisory Committee recommends be commemorated by the issuance of commemorative coins in each of the 5 calendar years succeeding the year in which a commemorative coin designation is made;

(B) the mintage level for any commemorative coin recommended under subparagraph (A); and

(C) the proposed designs for commemorative coins.

(d) EXPENSES.—The expenses of the Advisory Committee that the Secretary of the Treasury

determines to be reasonable and appropriate shall be paid by the Secretary from the United States Mint Public Enterprise Fund.

(e) ADMINISTRATIVE SUPPORT, TECHNICAL SERVICES, AND ADVICE.—Upon the request of the Advisory Committee, or as necessary for the Advisory Committee to carry out the responsibilities of the Advisory Committee under this section, the Director of the United States Mint shall provide to the Advisory Committee the administrative support, technical services, and advice that the Secretary of the Treasury determines to be reasonable and appropriate.

(f) CONSULTATION AUTHORITY.—In carrying out the duties of the Advisory Committee under this section, the Advisory Committee may consult with the Commission of Fine Arts.

(g) ANNUAL REPORT.—

(1) REQUIRED.—Not later than September 30 of each year, the Advisory Committee shall submit a report to the Secretary, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. Should circumstances arise in which the Advisory Committee cannot meet the September 30 deadline in any year, the Secretary shall advise the Chairpersons of the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the reasons for such delay and the date on which the submission of the report is anticipated.

(2) CONTENTS.—The report required by paragraph (1) shall describe the activities of the Advisory Committee during the preceding year and the reports and recommendations made by the Advisory Committee to the Secretary of the Treasury.

(h) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—Subject to the requirements of subsection (b)(8), the Federal Advisory Committee Act shall not apply with respect to the Committee.

(Added Pub. L. 102–390, title II, § 229(a), Oct. 6, 1992, 106 Stat. 1631; amended Pub. L. 104–208, div. A, title I, § 101(f) [title V, § 529(d)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–352; Pub. L. 104–329, title III, § 303(a), Oct. 20, 1996, 110 Stat. 4014; Pub. L. 108–15, title I, § 103(a), Apr. 23, 2003, 117 Stat. 616.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2003—Pub. L. 108–15 amended section catchline and text generally. Prior to amendment, text provided for the establishment of the Citizens Commemorative Coin Advisory Committee and contained provisions concerning its oversight, membership, duties, and funding, the term of each membership, and the compensation of each member.

1996—Subsec. (a)(4). Pub. L. 104–329 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Each member appointed under clause (i) or (iii) of paragraph (3)(A) shall be appointed for a term of 4 years.''

Pub. L. 104–208, § 101(f) [title V, § 529(d)(1)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''No individual shall be appointed to serve as a member of the Advisory Committee for a term in excess of 5 years.''

Subsec. (a)(7). Pub. L. 104–208, § 101(f) [title V, § 529(d)(2)], added par. (7).

ABOLISHMENT OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE; CONTINUITY OF MEMBERS

Pub. L. 108–15, title I, § 103(b), (c), Apr. 23, 2003, 117 Stat. 618, 619, provided that:

''(b) ABOLISHMENT OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—Effective on the date of the enactment of this Act [Apr. 23, 2003], the Citizens Commemorative Coin Advisory Committee (established by section 5135 of title 31, United States Code, as in effect before the amendment made by subsection (a)) is hereby abolished.

''(c) CONTINUITY OF MEMBERS OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—Subject to paragraphs (1) and (2) of section 5135(b) of title 31, United States Code, any person who is a member of the Citizens Commemorative Coin Advisory Committee on the date of the enactment of this Act [Apr. 23, 2003], other than the member of such committee who is appointed from among the officers or employees of the United States Mint, may continue to serve the remainder of the term to which such member was appointed as a member of the Citizens Coinage Advisory Committee in one of the positions as determined by the Secretary.''

STAGGERED TERMS FOR MEMBERS OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE

Pub. L. 104–329, title III, § 303(b), Oct. 20, 1996, 110 Stat. 4014, provided that members serving on the Citizens Commemorative Coin Advisory Committee as of Oct. 20, 1996, would be deemed to have been appointed to terms which ended on Dec. 31, 1997, 1998, or 1999.

STATUS OF MEMBERS OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE

Pub. L. 104–329, title III, § 303(c), Oct. 20, 1996, 110 Stat. 4015, provided that members appointed to the Citizens Commemorative Coin Advisory Committee under clause (i) or (iii) of subsec. (a)(3)(A) of this section would not be treated as special Government employees.

## § 5136. United States Mint Public Enterprise Fund

There shall be established in the Treasury of the United States, a United States Mint Public Enterprise Fund (the ''Fund'') for fiscal year 1996 and hereafter: *Provided*, That all receipts from Mint operations and programs, including the production and sale of numismatic items, the production and sale of circulating coinage, the protection of Government assets, and gifts and bequests of property, real or personal shall be deposited into the Fund and shall be available without fiscal year limitations: *Provided further*, That all expenses incurred by the Secretary of the Treasury for operations and programs of the United States Mint that the Secretary of the Treasury determines, in the Secretary's sole discretion, to be ordinary and reasonable incidents of Mint operations and programs, and any expense incurred pursuant to any obligation or other commitment of Mint operations and programs that was entered into before the establishment of the Fund, shall be paid out of the Fund: *Provided further*, That not to exceed 6.2415 percent of the nominal value of the coins minted, shall be paid out of the Fund for the circulating coin operations and programs in fiscal year 1996 for those operations and programs previously provided for by appropriation:

*Provided further*, That the Secretary of the Treasury may borrow such funds from the General Fund as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues into the Fund: *Provided further*, That the General Fund shall be reimbursed for such funds by the Fund within one year of the date of the loan: *Provided further*, That the Fund may retain receipts from the Federal Reserve System from the sale of circulating coins at face value for deposit into the Fund (retention of receipts is for the circulating operations and programs): *Provided further*, That the Secretary of the Treasury shall transfer to the Fund all assets and liabilities of the Mint operations and programs, including all Numismatic Public Enterprise Fund assets and liabilities, all receivables, unpaid obligations and unobligated balances from the Mint's appropriation, the Coinage Profit Fund, and the Coinage Metal Fund, and the land and buildings of the Philadelphia Mint, Denver Mint, and the Fort Knox Bullion Depository: *Provided further*, That the Numismatic Public Enterprise Fund, the Coinage Profit Fund and the Coinage Metal Fund shall cease to exist as separate funds as their activites[1] and functions are subsumed under and subject to the Fund, and the requirements of 31 USC 5134(c)(4), (c)(5)(B), and (d) and (e)[2] of the Numismatic Public Enterprise Fund shall apply to the Fund: *Provided further*, That at such times as the Secretary of the Treasury determines appropriate, but not less than annually, any amount in the Fund that is determined to be in excess of the amount required by the Fund shall be transferred to the Treasury for deposit as miscellaneous receipts: *Provided further*, That the term ''Mint operations and programs'' means (1) the activities concerning, and assets utilized in, the production, administration, distribution, marketing, purchase, sale, and management of coinage, numismatic items, the protection and safeguarding of Mint assets and those non-Mint assets in the custody of the Mint, and the Fund; and (2) includes capital, personnel salaries and compensation, functions relating to operations, marketing, distribution, promotion, advertising, official reception and representation, the acquisition or replacement of equipment, the renovation or modernization of facilities, and the construction or acquisition of new buildings: *Provided further*, That the term ''numismatic item'' includes any medal, proof coin, uncirculated coin, bullion coin, numismatic collectible, other monetary issuances and products and accessories related to any such medal or coin: *Provided further*, That provisions of law governing procurement or public contracts shall not be applicable to the procurement of goods or services necessary for carrying out Mint programs and operations.

(Added Pub. L. 104–52, title V, § 522, Nov. 19, 1995, 109 Stat. 494.)

REFERENCES IN TEXT

Section 5134(c) of this title, referred to in text, was amended by Pub. L. 108–15, title I, § 103(d)(2), Apr. 23, 2003, 117 Stat. 619, which struck out par. (4) and redesignated par. (5) as (4).

[1] So in original. Probably should be ''activities''.

[2] See References in Text note below.

CODIFICATION

Section 522 of Pub. L. 104–52, which directed the amendment of subchapter III of chapter 51 of this title by adding at the end thereof a new section, but had the ending quotation marks following the section catchline, was executed by adding this section as set out above, to reflect the probable intent of Congress.

## SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING

### § 5141. Operation of the Bureau

(a) The Secretary of the Treasury shall prepare and submit to the President an annual business-type budget for the Bureau of Engraving and Printing.

(b)(1) The Secretary shall maintain in the Bureau an integrated accounting system with internal controls that—

(A) ensures adequate control over assets and liabilities of the Bureau of Engraving and Printing Fund described in section 5142 of this title;

(B) develops accurate production costs to enable the Bureau to recover those costs on the basis of the work requisitioned;

(C) provides for replacement of capitalized equipment and other fixed assets by maintaining adequate depreciation reserves based on original cost or appraised values;

(D) discloses the financial condition and operations of the Fund on an accrual basis of accounting; and

(E) provides information for the prior fiscal year on the annual budget of the Bureau.

(2) The accounting system shall conform to principles and standards prescribed by the Comptroller General to carry out this subsection. The Comptroller General may review the system to ensure conformity to the principles and standards and its effectiveness of operation.

(c) An officer or employee in the clerical-mechanical service of the Bureau assigned to an established shift or tour of duty at least half of which occurs between 6 p.m. and 6 a.m. is entitled to pay for the regular 40-hour week (except when on leave) at a rate of pay 15 percent higher than the day rate for the same work.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 990.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5141(a) ..... | 31:181b. | Aug. 4, 1950, ch. 558, §§4, 5, 64 Stat. 409. |
| 5141(b) ..... | 31:181c. | |
| 5141(c) ..... | 31:180. | July 1, 1944, ch. 357, 58 Stat. 648. |

In subsection (a), the word ''budget'' is substituted for ''budget program'' to eliminate unnecessary words. The words ''to the President'' are added because of chapter 11 of the revised title.

In subsection (b)(1), before clause (A), the words ''Secretary shall maintain'' are substituted for ''There shall be installed and maintained'' because of sections 301 and 303 of the revised title and to eliminate executed words. The words ''internal controls'' are substituted for ''including proper features of internal control'' to eliminate unnecessary words. In clause (B), the word ''costs'' is substituted for ''direct and indirect costs'' to eliminate unnecessary words. In clause (D),

the word ''basis'' is substituted for ''method'' for clarity. In clause (E), the words ''provides information'' are substituted for ''supply on the basis of accounting results the data'' to eliminate unnecessary words. The word ''prior'' is substituted for ''last completed'' for consistency in the revised title.

In subsection (c), the words ''An officer or employee'' are substituted for ''employees'' for consistency in the revised title and with other titles of the United States Code. The words ''assigned to an established shift or tour of duty at least half of which occurs between the hours of 6 p.m. and 6 a.m.'' are substituted for ''assigned to perform their work at night'' and 31:180(proviso) to eliminate unnecessary words.

AUTHORITY OF SPECIAL POLICE OFFICERS

Pub. L. 104–208, div. A, title I, § 101(f) [title V, § 517], Sept. 30, 1996, 110 Stat. 3009–314, 3009–346, provided that: ''Notwithstanding any other provision of law or regulation during the fiscal year ending September 30, 1997, and thereafter:

''(1) The authority of the special police officers of the Bureau of Engraving and Printing, in the Washington, DC Metropolitan area, extends to buildings and land under the custody and control of the Bureau; to buildings and land acquired by or for the Bureau through lease, unless otherwise provided by the acquisition agency; to the streets, sidewalks and open areas immediately adjacent to the Bureau along Wallenberg Place (15th Street) and 14th Street between Independence and Maine Avenues and C and D Streets between 12th and 14th Streets; to areas which include surrounding parking facilities used by Bureau employees, including the lots at 12th and C Streets, SW, Maine Avenue and Water Streets, SW, Maiden Lane, the Tidal Basin and East Potomac Park; to the protection in transit of United States securities, plates and dies used in the production of United States securities, or other products or implements of the Bureau of Engraving and Printing which the Director of that agency so designates.

''(2) The authority of the special police officers of the United States Mint extends to the buildings and land under the custody and control of the Mint; to the streets, sidewalks and open areas in the vicinity to such facilities; to surrounding parking facilities used by Mint employees; and to the protection in transit of bullion, coins, dies, and other property and assets of, or in the custody of, the Mint.

''(3) The exercise of police authority by Bureau or Mint officers, with the exception of the exercise of authority upon property under the custody and control of the Bureau or the Mint, respectively, shall be deemed supplementary to the Federal police force with primary jurisdictional responsibility. This authority shall be in addition to any other law enforcement authority which has been provided to these officers under other provisions of law or regulations.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–52, title V, § 520, Nov. 19, 1995, 109 Stat. 494.

Pub. L. 103–329, title V, § 535, Sept. 30, 1994, 108 Stat. 2414.

## § 5142. Bureau of Engraving and Printing Fund

(a) The Department of the Treasury has a Bureau of Engraving and Printing Fund. Amounts—

(1) in the Fund are available to operate the Bureau of Engraving and Printing;

(2) in the Fund remain available until expended; and

(3) may be appropriated to the Fund.

(b) The Fund consists of—

(1) property and physical assets (except buildings and land) acquired by the Bureau;

(2) all amounts received by the Bureau; and

(3) proceeds from the disposition of property and assets acquired by the Fund.

(c) The capital of the Fund consists of—

(1) amounts appropriated to the Fund;

(2) physical assets of the Bureau (except buildings and land) as of the close of business June 30, 1951; and

(3) all payments made after June 30, 1974, under section 5143 of this title at prices adjusted to permit buying capital equipment and to provide future working capital.

(d) The Secretary shall deposit each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing to the Fund in the prior fiscal year that the Secretary decides are in excess of the needs of the Fund. However, the Secretary may use the excess amounts to restore capital of the Fund reduced by the difference between the charges for services of the Bureau and the cost of providing those services.

(e) The Secretary shall maintain a special deposit account in the Treasury for the Fund. The Secretary shall credit the account with amounts appropriated to the Fund and receipts of the Bureau without depositing the receipts in the Treasury as miscellaneous receipts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 990.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5142(a) ..... | 31:181a(a)(1st sentence), (d). | Aug. 4, 1950, ch. 558, § 2, 64 Stat. 409. |
| 5142(b) ..... | 31:181a(c). | |
| 5142(c) ..... | 31:181a(a)(last sentence), (b). | |
| | 31:181(note). | July 31, 1977, Pub. L. 95–81, § 100(par. under heading ''Bureau of Engraving and Printing''), 91 Stat. 342. |
| 5142(d) ..... | 31:181a(e). | |
| 5142(e) ..... | 31:181a(f). | |

In subsection (a), before clause (1), the words ''as of July 1, 1951'' are omitted as executed. In clause (1), the words ''subsequent to June 30, 1951'' are omitted as executed. In clause (2), the words ''remain available until expended'' are substituted for ''shall be available without fiscal year limitation'' for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(2), the words ''amounts received by the Bureau'' are substituted for ''all amounts recoverable as provided in section 181 of this title for the costs of work and services performed by the Bureau, and all other amounts receivable by the Bureau from whatever sources derived'' to eliminate unnecessary words.

In subsection (c)(1), the words ''amounts appropriated to the Fund'' are substituted for ''an initial appropriation by the Congress to the fund of not to exceed $5,000,000 and such additional amounts as from time to time may be appropriated for the purposes of the fund'' to eliminate unnecessary words.

In subsection (c)(2), the words ''such inventories and other physical assets to be capitalized at fair and reasonable values to be determined by the Secretary'' are omitted as executed. The words ''receivables and the inventories'' are omitted as covered by ''physical assets''. The words ''unexpended balances of appropriations'' are omitted as unnecessary because of clause (1).

In subsection (c)(3), the words ''$5,000,000, to remain available until expended'' are omitted as unnecessary because of the source provision restated in subsection (a)(2) of this section. The text of 31:181a(a)(3) and (b) is omitted as executed.

In subsection (d), the words ''each fiscal year'' are substituted for ''ensuing fiscal year'', and the words

''prior fiscal year'' are added, because of the restatement. The word ''Secretary'' is added because of sections 301 and 303 of the revised title. The words ''decides are in excess of the needs of the Fund'' are substituted for ''surplus'' for consistency in the chapter. The words ''may use'' are substituted for ''may be applied first'' to eliminate unnecessary words. The word ''reduced'' is substituted for ''impairment'' for clarity.

In subsection (e), the words ''Secretary shall maintain'' are substituted for ''shall be established'' because of sections 301 and 303 of the revised title and to eliminate executed words. The words ''in the Treasury'' are substituted for ''with the Treasurer of the United States'' because of Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The text of 31:181a(f)(last sentence) is omitted as unnecessary because of the source provisions restated in section 3325 of the revised title.

### § 5143. Payment for services

The Secretary of the Treasury shall impose charges for Bureau of Engraving and Printing services the Secretary provides to an agency or to a foreign government under section 5114. The charges shall be in amounts the Secretary considers adequate to cover the costs of the services (including administrative and other costs related to providing the services). The agency shall pay promptly bills submitted by the Secretary, and the Secretary shall take such action, in coordination with the Secretary of State, as may be appropriate to ensure prompt payment by a foreign government of any invoice or statement of account submitted by the Secretary with respect to services rendered under section 5114.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 991; Pub. L. 108–458, title VI, § 6301(b), Dec. 17, 2004, 118 Stat. 3748.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5143 ..... | 31:181. | Aug. 4, 1950, ch. 558, §1, 64 Stat. 408. |

The word ''costs'' is substituted for ''direct and indirect costs'' to eliminate unnecessary words. The words ''shall make payment therefor'' are omitted as unnecessary because of the restatement. The words ''from funds available to it for such purposes'' are omitted as surplus.

AMENDMENTS

2004—Pub. L. 108–458 inserted ''or to a foreign government under section 5114'' after ''provides to an agency'', ''and other'' after ''including administrative'', and '', and the Secretary shall take such action, in coordination with the Secretary of State, as may be appropriate to ensure prompt payment by a foreign government of any invoice or statement of account submitted by the Secretary with respect to services rendered under section 5114'' before period at end.

### § 5144. Providing impressions of portraits and vignettes

The Secretary of the Treasury may provide impressions from an engraved portrait or vignette in the possession of the Bureau of Engraving and Printing. An impression shall be provided—

(1) at the request of—

(A) a member of Congress;

(B) a head of an agency;

(C) an art association; or

(D) a library; and

(2) for a charge and under conditions the Secretary decides are necessary to protect the public interest.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 991.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5144 ..... | 31:174. | Dec. 22, 1879, ch. 2, 21 Stat. 59. |

In the section, before clause (1), the word ''engraved'' is added before ''portrait'' because of the restatement. The words ''in the possession'' are substituted for ''which is now, or may be a part of the engraved stock'' to eliminate unnecessary words. The words ''An impression shall be provided'' are added because of the restatement. In clause (1)(A), the words ''member of Congress'' are substituted for ''Senator, Representative, or Delegate in Congress'' for consistency. In clause (1)(B), the word ''agency'' is substituted for ''department or bureau'' because of section 101 of the revised title and for consistency in the revised title. In clause (2), the words ''for a charge and under conditions the Secretary decides are'' are substituted for ''at such rates and under such conditions as he may deem'' for consistency.

## SUBCHAPTER V—MISCELLANEOUS

### § 5151. Conversion of currency of foreign countries

(a) In this section—

(1) ''buying rate'' means the buying rate in the market in New York, New York, for cable transfers payable in the currency of a foreign country to be converted.

(2) when merchandise is exported on a day that banks are generally closed in New York, the buying rate at noon on the last prior business day is deemed to be the buying rate at noon on the day the merchandise is exported.

(b) The value of coins of a foreign country expressed in United States money is the value of the pure metal of the standard coin of the foreign country. The Secretary of the Treasury shall estimate the values of standard coins of the country quarterly and publish the values on the first day of January, April, July, and October of each year.

(c) Except as provided in this section, conversion of currency of a foreign country into United States currency for assessment and collection of duties on merchandise imported into the United States shall be made at values published by the Secretary under subsection (b) of this section for the quarter in which the merchandise is exported.

(d) If the Secretary has not published a value for the quarter in which the merchandise is exported, or if the value published by the Secretary varies by at least 5 percent from a value measured by the buying rate at noon on the day the merchandise is exported, the conversion of the currency of the foreign country shall be made at a value—

(1) equal to the buying rate at noon on the day the merchandise is exported; or

(2) prescribed by regulation of the Secretary for the currency that is equal to the first buying rate certified for that currency by the Fed-

eral Reserve Bank of New York under subsection (e) of this section in the quarter in which the merchandise is exported, but only if the buying rate at noon on the day the merchandise is exported varies less than 5 percent from the buying rate first certified.

(e) The Federal Reserve Bank of New York shall decide the buying rate and certify the rate to the Secretary. The Secretary shall publish the rate at times and to the extent the Secretary considers necessary. In deciding the buying rate, the Bank may—

(1) consider the last ascertainable transactions and quotations (direct or through exchange of other currencies); and

(2) if there is no buying rate, calculate the rate from—

(A) actual transactions and quotations in demand or time bills of exchange; or

(B) the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or foreign currency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 991.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5151(a) ..... | 31:372(c)(2)(1st sentence), (3). | June 17, 1930, ch. 497, § 522(c), 46 Stat. 740; restated Aug. 2, 1956, ch. 887, § 3, 70 Stat. 946. |
| 5151(b) ..... | 31:372(a). | Aug. 27, 1894, ch. 349, § 25, 28 Stat. 552; May 27, 1921, ch. 14, § 403(a), 42 Stat. 17; restated June 17, 1930, ch. 497, § 522(a), 46 Stat. 739. |
| 5151(c) ..... | 31:372(b). | June 17, 1930, ch. 497, § 522(b), 46 Stat. 740. |
| 5151(d) ..... | 31:372(c)(1). | |
| 5151(e) ..... | 31:372(c)(2)(2d, last sentences). | |

In subsection (b), the words ''United States money'' are substituted for ''money of account'' for consistency in the chapter. The words ''standard coins of the country'' are substituted for ''values of standard coins in circulation of the various nations of the world'' to eliminate unnecessary words. The words ''Secretary of the Treasury'' are substituted for ''Director of the Mint'' because of the source provisions restated in section 321(c) of the revised title.

In subsection (c), the words ''on or after June 17, 1930'' are omitted as executed.

In subsection (d)(1), the words ''buying rate at noon on the day the merchandise is exported'' are substituted for ''such buying rate'' for clarity.

In subsection (d)(2), the words ''that is equal to'' are substituted for ''at a value measured by'' because of the restatement.

In subsection (e)(2), the words ''buying rate'' are substituted for ''market buying rate for such cable transfers'' to eliminate unnecessary words.

## § 5152. Value of United States money holdings in international institutions

The Secretary of the Treasury shall maintain the value in terms of gold of the holdings of United States money of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of those institutions. Amounts necessary to maintain the value may be appropriated. Amounts appropriated under this section remain available until expended.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 992.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5152 ..... | 31:449a. | Mar. 31, 1972, Pub. L. 92–268, § 3, 86 Stat. 117. |

The word ''money'' is substituted for ''dollars'' for consistency in the revised title. The words ''the International Monetary Fund'' are omitted as obsolete because of section 9 of the Act of October 19, 1976 (Pub. L. 94–564, 90 Stat. 2661).

## § 5153. Counterfeit currency

Disbursing officials of the United States Government and officers of national banks shall stamp or mark the word ''counterfeit'', ''altered'', or ''worthless'' on counterfeit notes intended to circulate as currency that are presented to them. An official or officer wrongfully stamping or marking an item of genuine United States currency (including a Federal reserve note or a circulating note of Federal reserve banks and national banks) shall redeem the currency at face value when presented.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 992.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5153 ..... | 31:424. | June 30, 1876, ch. 156, § 5, 19 Stat. 64. |

The words ''Disbursing officials'' are substituted for ''officers charged with the receipt or disbursement of public moneys'' for consistency in the revised title and other titles of the United States Code. The word ''mark'' is substituted for ''write in plain letters'' to eliminate unnecessary words. The words ''counterfeit notes intended to circulate as currency'' are substituted for ''all fraudulent notes issued in the form of, and intended to circulate as money'' for consistency in the revised title and with other titles of the Code. The last sentence is substituted for the words following the semicolon in 31:424 for clarity and to reflect the legislative history of the derivative source. See 4 Cong. Rec. 2225–2228, 3148. In that sentence, the words ''United States currency (including a Federal reserve note or a circulating note of Federal reserve banks and national banks)'' are substituted for ''any genuine note of the United States, or of the national banks'' for consistency with section 5103 of the revised title.

## § 5154. State taxation

A State or a territory or possession of the United States may tax United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) as money on hand or on deposit in the same way and at the same rate that the State, territory, or possession taxes other forms of money. This section does not affect a law taxing national banks.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 992; Pub. L. 97–452, § 1(22), Jan. 12, 1983, 96 Stat. 2477.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5154 ..... | 31:425, 426. | Aug. 13, 1894, ch. 281, 28 Stat. 278. |

The words ''United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks)'' are substituted for ''Circulating notes of national banking associations and United States legal tender notes and other notes and certificates of the United States payable on demand and circulating or intended to circulate as currency and gold, silver, or other coin'' in 31:425 to eliminate unnecessary words and for consistency with section 5103 of the revised title.

1983 ACT

This restates 31:5154 to clarify the intent of the section. See 26 Cong. Rec. 7152, 7170 (1894).

AMENDMENTS

1983—Pub. L. 97–452 substituted ''other forms of money'' for ''United States coins and currency circulating within its jurisdiction''.

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.

### § 5155. Providing engraved plates of portraits of deceased members of Congress

On conditions the Secretary of the Treasury decides, the Secretary may send an engraved plate of a portrait of a deceased Senator or Representative to an heir or legal representative of such a Senator or Representative.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 993.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5155 ..... | 31:175. | July 1, 1916, ch. 209, §1(3d par. on p. 275), 39 Stat. 275. |

The words ''terms and'' are omitted as being included in ''conditions''. The words ''that have been or may be made'' are omitted as unnecessary.

## CHAPTER 53—MONETARY TRANSACTIONS

SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

Sec.
5301. Buying obligations of the United States Government.
5302. Stabilizing exchange rates and arrangements.
5303. Reserved coins and currencies of foreign countries.
5304. Regulations.

SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

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5315. Reports on foreign currency transactions.
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SUBCHAPTER III—MONEY LAUNDERING AND RELATED FINANCIAL CRIMES

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PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES STRATEGY

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5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling.
5364. Policies and procedures to identify and prevent restricted transactions.
5365. Civil remedies.
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5367. Circumventions prohibited.

AMENDMENTS

2006—Pub. L. 109–347, title VIII, §802(b), Oct. 13, 2006, 120 Stat. 1961, added subchapter IV heading and items 5361 to 5367.

2004—Pub. L. 108–458, title VI, §6203(i), Dec. 17, 2004, 118 Stat. 3747, substituted item 5318A for former item 5318A ''Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern''.

Pub. L. 108–458, title VI, §6202(n)(1), (*o*), Dec. 17, 2004, 118 Stat. 3746, amended Pub. L. 107–56, §365. See 2001 Amendment note below.

2001—Pub. L. 107–56, title III, §365(d), formerly §365(c), Oct. 26, 2001, 115 Stat. 335, as renumbered and amended by Pub. L. 108–458, title VI, §6202(n)(1), (*o*), Dec. 17, 2004, 118 Stat. 3746, added item 5331.

Pub. L. 107–56, title III, §§311(b), 371(c), Oct. 26, 2001, 115 Stat. 304, 338, added items 5318A and 5332.

1998—Pub. L. 105–310, §2(b), Oct. 30, 1998, 112 Stat. 2948, added subchapter III heading, parts 1 and 2 headings, and items 5340 to 5355.

1996—Pub. L. 104–208, div. A, title II, §2223(2), Sept. 30, 1996, 110 Stat. 3009–415, struck out item 5327 ''Identification of financial institutions''.

1994—Pub. L. 103–325, title III, § 311(b), title IV, § 408(d), Sept. 23, 1994, 108 Stat. 2221, 2252, added items 5329 and 5330.

1992—Pub. L. 102–550, title XV, §§ 1511(c), 1563(b), Oct. 28, 1992, 106 Stat. 4057, 4073, added items 5327 and 5328.

1988—Pub. L. 100–690, title VI, § 6185(f), Nov. 18, 1988, 102 Stat. 4357, added items 5325 and 5326.

1986—Pub. L. 99–570, title I, §§ 1354(b), 1356(d), Oct. 27, 1986, 100 Stat. 3207–22, 3207–25, substituted ''Compliance, exemptions, and summons authority'' for ''Compliance and exemptions'' in item 5318 and added item 5324.

1984—Pub. L. 98–473, title II, § 901(f), Oct. 12, 1984, 98 Stat. 2136, added item 5323.

## SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

### § 5301. Buying obligations of the United States Government

(a) The President may direct the Secretary of the Treasury to make an agreement with the Federal reserve banks and the Board of Governors of the Federal Reserve System when the President decides that the foreign commerce of the United States is affected adversely because—

(1) the value of coins and currency of a foreign country compared to the present standard value of gold is depreciating;

(2) action is necessary to regulate and maintain the parity of United States coins and currency;

(3) an economic emergency requires an expansion of credit; or

(4) an expansion of credit is necessary so that the United States Government and the governments of other countries can stabilize the value of coins and currencies of a country.

(b) Under an agreement under subsection (a) of this section, the Board shall permit the banks (and the Board is authorized to permit the banks notwithstanding another law) to agree that the banks will—

(1) conduct through each entire specified period open market operations in obligations of the United States Government or corporations in which the Government is the majority stockholder; and

(2) buy directly and hold an additional $3,000,000,000 of obligations of the Government for each agreed period, unless the Secretary consents to the sale of the obligations before the end of the period.

(c) With the approval of the Secretary, the Board may require Federal reserve banks to take action the Secretary and Board consider necessary to prevent unreasonable credit expansion.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 993.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5301(a), (b). | 31:821(less (a)(last sentence)). | May 12, 1933, ch. 25, § 43(less (b)(1)(last sentence)), 48 Stat. 51; Jan. 30, 1934, ch. 6, § 12, 48 Stat. 342; Jan. 23, 1937, ch. 5, § 2, 50 Stat. 4; July 6, 1939, ch. 260, § 3, 53 Stat. 998; June 30, 1941, ch. 265, § 2, 55 Stat. 396; June 12, 1945, ch. 186, § 4, 59 Stat. 238; Mar. 18, 1968, Pub. L. 90–269, § 9, 82 Stat. 50. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5301(c) ..... | 31:821(a)(last sentence). | |

In subsection (a), before clause (1), the text of 31:821(b)(matter before (1)) is omitted as obsolete because clause (1) is omitted as executed, and clause (2) is omitted as expired. The text of 31:821(b)(matter after (2)) is omitted as obsolete because silver is no longer coined. The words ''in his discretion'' and ''several'' are omitted as surplus. The words ''Board of Governors of the Federal Reserve System'' are substituted for ''Federal Reserve Board'' because of 12:241. The words ''upon investigation'' are omitted as surplus. In clause (1), the word ''foreign'' is substituted for ''of any other government or governments'' to eliminate unnecessary words. The words ''coins and'' are added for consistency. In clause (2), the words ''United States coins and currency'' are substituted for ''currency issues of the United States'' for consistency. In clause (4), the words ''so that the United States Government and the governments of other countries can stabilize'' are substituted for ''to secure by international agreement a stabilization'' for clarity. The words ''at proper levels'' are omitted as surplus.

In subsection (b), before clause (1), the words ''(and the Board is authorized to permit the banks notwithstanding another law)'' are substituted for ''notwithstanding any provisions of law or rules and regulations to the contrary'' for clarity. In clause (1), the words ''pursuant to existing law'' are omitted as surplus. The words ''through each entire'' are substituted for ''throughout'' for clarity. In clause (2), the words ''in portfolio'', ''or periods of time Treasury bills or other'' and ''in an aggregate sum of'' are omitted as surplus.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–347, title VIII, § 801, Oct. 13, 2006, 120 Stat. 1952, provided that: ''This title [enacting sections 5361 to 5367 of this title and provisions set out as a note under section 5361 of this title] may be cited as the 'Unlawful Internet Gambling Enforcement Act of 2006'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–458, title VI, § 6201, Dec. 17, 2004, 118 Stat. 3745, provided that: ''This subtitle [subtitle C (§§ 6201–6205) of title VI of Pub. L. 108–458, amending sections 310, 5312, 5318, 5318A, 5324, and 5332 of this title, sections 1828, 1829b, and 1953 of Title 12, Banks and Banking, section 1681v of Title 15, Commerce and Trade, and section 262p–4r of Title 22, Foreign Relations and Intercourse, enacting provisions set out as a note under section 1828 of Title 12, amending provisions set out as notes under sections 310, 5311, and 5331 of this title and sections 1828 and 1842 of Title 12, and repealing provisions set out as a note under section 5311 of this title] may be cited as the 'International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004'.''

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107–56, title III, § 301, Oct. 26, 2001, 115 Stat. 296, provided that: ''This title [enacting sections 310, 5318A, 5331, and 5332 of this title, section 1681v of Title 15, Commerce and Trade, and section 262p–4r of Title 22, Foreign Relations and Intercourse, amending sections 5311, 5312, 5317, 5318, 5319, 5321, 5322, 5324, 5326, 5328, 5330, and 5341 of this title, sections 248, 1828, 1829b, 1842, 1953, 3412, 3414, and 3420 of Title 12, Banks and Banking, section 1681u of Title 15, sections 470 to 474, 476 to 484, 493, 981 to 983, 1029, 1956, and 1960 of Title 18, Crimes and Criminal Procedure, section 853 of Title 21, Food and Drugs, and sections 2466 and 2467 of Title 28, Judiciary and Judicial Procedure, renumbering former section 310 of this title as section 311, and enacting provisions set out as notes under sections 310, 5311, 5313, 5314, 5318,

5331, and 5332 of this title, sections 1828, 1829b, and 1842 of Title 12, and section 983 of Title 18] may be cited as the 'International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–310, § 1, Oct. 30, 1998, 112 Stat. 2941, provided that: ''This Act [enacting subchapter III of this chapter and provisions set out as a note under section 5342 of this title] may be cited as the 'Money Laundering and Financial Crimes Strategy Act of 1998'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–325, title IV, § 401, Sept. 23, 1994, 108 Stat. 2243, provided that: ''This title [enacting section 5330 of this title, amending sections 5312, 5313, 5318, 5321, 5322, and 5324 of this title, sections 93, 1464, 1772d, 1786, 1818, and 1821 of Title 12, Banks and Banking, and sections 984, 986, 1956, 1957, and 1960 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 5311, 5313, 5318, and 5330 of this title] may be cited as the 'Money Laundering Suppression Act of 1994'.''

## § 5302. Stabilizing exchange rates and arrangements

(a)(1) The Department of the Treasury has a stabilization fund. The fund is available to carry out this section, section 18 of the Bretton Woods Agreement Act (22 U.S.C. 286e–3), and section 3 of the Special Drawing Rights Act (22 U.S.C. 286*o*), and for investing in obligations of the United States Government those amounts in the fund the Secretary of the Treasury, with the approval of the President, decides are not required at the time to carry out this section. Proceeds of sales and investments, earnings, and interest shall be paid into the fund and are available to carry out this section. However, the fund is not available to pay administrative expenses.

(2) Subject to approval by the President, the fund is under the exclusive control of the Secretary, and may not be used in a way that direct control and custody pass from the President and the Secretary. Decisions of the Secretary are final and may not be reviewed by another officer or employee of the Government.

(b) Consistent with the obligations of the Government in the International Monetary Fund on orderly exchange arrangements and a stable system of exchange rates, the Secretary or an agency designated by the Secretary, with the approval of the President, may deal in gold, foreign exchange, and other instruments of credit and securities the Secretary considers necessary. However, a loan or credit to a foreign entity or government of a foreign country may be made for more than 6 months in any 12-month period only if the President gives Congress a written statement that unique or emergency circumstances require the loan or credit be for more than 6 months.

(c)(1) By the 30th day after the end of each month, the Secretary shall give the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a detailed financial statement on the stabilization fund showing all agreements made or renewed, all transactions occurring during the month, and all projected liabilities.

(2) The Secretary shall report each year to the President and Congress on the operation of the fund.

(d) A repayment of any part of the first subscription payment of the Government to the International Monetary Fund, previously paid from the stabilization fund, shall be deposited in the Treasury as a miscellaneous receipt.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5302(a) ..... | 31:822a(b)(1). | Jan. 30, 1934, ch. 6, § 10(a), (b)(1), (c), 48 Stat. 341, 342; Jan. 23, 1937, ch. 5, § 1, 50 Stat. 4; July 6, 1939, ch. 260, §§ 1, 2, 53 Stat. 998; June 30, 1941, ch. 265, § 1, 55 Stat. 395; Apr. 29, 1943, ch. 76, 57 Stat. 68; July 31, 1945, ch. 339, § 7(a), 59 Stat. 514; Dec. 30, 1970, Pub. L. 91–599, §§ 41, 42, 84 Stat. 1659; Oct. 19, 1976, Pub. L. 94–564, § 7, 90 Stat. 2661; Oct. 28, 1977, Pub. L. 95–147, § 4(b), 91 Stat. 1229; Nov. 8, 1978, Pub. L. 95–612, §§ 1, 6, 92 Stat. 3091, 3092. |
| 5302(b) ..... | 31:822a(a)(1st sentence). | |
| 5302(c)(1) | 31:822a(b)(2). | Jan. 30, 1934, ch. 6, 48 Stat. 337, § 10(b)(2); added Nov. 8, 1978, Pub. L. 95–612, § 6, 92 Stat. 3092. |
| 5302(c)(2) | 31:822a(a)(last sentence). | |
| 5302(d) ..... | 31:822a(c). | |

In subsection (a)(1), the words ''The Department of the Treasury has a stabilization fund'' are substituted for ''there is appropriated, out of the receipts which are directed to be covered into the Treasury under section 408b of this title, the sum of $2,000,000,000, which sum when available shall be deposited in the United States Treasury in a stabilization fund'' because the fund has been established. The words ''(hereinafter called the 'fund')'' are omitted as unnecessary because of the restatement. The words ''To enable the Secretary of the Treasury'' and ''The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section'' are omitted as surplus. The words ''section 18 of the Bretton Woods Agreement Act (22 U.S.C. 286e–3), and section 3 of the Special Drawing Rights Act (22 U.S.C. 286*o*)'' are added for clarity. The words ''and reinvestment'' and ''direct'' are omitted as surplus. The word ''Government'' is added for consistency. The words ''accruing under the operations of this section'' are omitted as surplus. The words ''to carry out this section'' after ''are available'' are substituted for ''for the purposes of the fund'' for consistency.

In subsection (b), the words ''directly . . . through'' and ''for the account of the fund established in this section'' are omitted as surplus. The words ''government of a foreign country'' are substituted for ''foreign government'' for consistency in the revised title and with other titles of the United States Code. The words ''by or through such fund'' are omitted as surplus.

In subsection (c)(1), the word ''calendar'' is omitted as surplus. The words ''beginning after the effective date of this paragraph'' are omitted as executed. The words ''to occur'' are omitted as surplus.

In subsection (d), the words ''any part of the first subscription payment of the Government to the International Monetary Fund, previously paid from the stabilization fund'' are substituted for 31:822a(c)(words before semicolon) and ''thereof'' for clarity because the payment has been made.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services 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 Con-

gress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

MEXICAN DEBT DISCLOSURE

Pub. L. 104–6, title IV, Apr. 10, 1995, 109 Stat. 89, provided that:

''SEC. 401. SHORT TITLE.

''This title may be cited as the 'Mexican Debt Disclosure Act of 1995'.

''SEC. 402. FINDINGS.

''The Congress finds that—

''(1) Mexico is an important neighbor and trading partner of the United States;

''(2) on January 31, 1995, the President approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in the amount of $20,000,000,000, using the exchange stabilization fund;

''(3) the program of assistance involves the participation of the Board of Governors of the Federal Reserve System, the International Monetary Fund, the Bank for International Settlements, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Bank of Canada, and several Latin American countries;

''(4) the involvement of the exchange stabilization fund and the Board of Governors of the Federal Reserve System means that United States taxpayer funds will be used in the assistance effort to Mexico;

''(5) assistance provided by the International Monetary Fund, the International Bank for Reconstruction and Development, and the Inter-American Development Bank may require additional United States contributions of taxpayer funds to those entities;

''(6) the immediate use of taxpayer funds and the potential requirement for additional future United States contributions of taxpayer funds necessitates congressional oversight of the disbursement of funds; and

''(7) the efficacy of the assistance to Mexico is contingent on the pursuit of sound economic policy by the Government of Mexico.

''SEC. 403. PRESIDENTIAL REPORTS.

''(a) REPORTING REQUIREMENT.—Not later than June 30, 1995, and every 6 months thereafter, the President shall transmit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

''(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall contain a description of the following actions taken, or economic situations existing, during the preceding 6-month period or, in the case of the initial report, during the period beginning on the date of enactment of this Act [Apr. 10, 1995]:

''(1) Changes in wage, price, and credit controls in the Mexican economy.

''(2) Changes in taxation policy of the Government of Mexico.

''(3) Specific actions taken by the Government of Mexico to further privatize the economy of Mexico.

''(4) Actions taken by the Government of Mexico in the development of regulatory policy that significantly affected the performance of the Mexican economy.

''(5) Consultations concerning the program approved by the President, including advice on economic, monetary, and fiscal policy, held between the Government of Mexico and the Secretary of the Treasury (including any designee of the Secretary) and the conclusions resulting from any periodic reviews undertaken by the International Monetary Fund pursuant to the Fund's loan agreements with Mexico.

''(6) All outstanding loans, credits, and guarantees provided to the Government of Mexico, by the United States Government, including the Board of Governors of the Federal Reserve System, set forth by category of financing.

''(7) The progress the Government of Mexico has made in stabilizing the peso and establishing an independent central bank or currency board.

''(c) SUMMARY OF TREASURY DEPARTMENT REPORTS.—In addition to the information required to be included under subsection (b), each report required under this section shall contain a summary of the information contained in all reports submitted under section 404 during the period covered by the report required under this section.

''SEC. 404. REPORTS BY THE SECRETARY OF THE TREASURY.

''(a) REPORTING REQUIREMENT.—Beginning on the last day of the first month which begins after the date of enactment of this Act [Apr. 10, 1995], and on the last day of every month thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report concerning all guarantees issued to, and short-term and long-term currency swaps with, the Government of Mexico by the United States Government, including the Board of Governors of the Federal Reserve System.

''(b) CONTENTS OF REPORTS.—Each report described in subsection (a) shall include a description of the following actions taken, or economic situations existing, during the month in which the report is required to be submitted:

''(1) The current condition of the Mexican economy.

''(2) The reserve positions of the central bank of Mexico and data relating to the functioning of Mexican monetary policy.

''(3) The amount of any funds disbursed from the exchange stabilization fund pursuant to the program of assistance to the Government of Mexico approved by the President on January 31, 1995.

''(4) The amount of any funds disbursed by the Board of Governors of the Federal Reserve System pursuant to the program of assistance referred to in paragraph (3).

''(5) Financial transactions, both inside and outside of Mexico, made during the reporting period involving funds disbursed to Mexico from the exchange stabilization fund or proceeds of Mexican Government securities guaranteed by the exchange stabilization fund.

''(6) All outstanding guarantees issued to, and short-term and medium-term currency swaps with, the Government of Mexico by the Secretary of the Treasury, set forth by category of financing.

''(7) All outstanding currency swaps with the central bank of Mexico by the Board of Governors of the Federal Reserve System and the rationale for, and any expected costs of, such transactions.

''(8) The amount of payments made by customers of Mexican petroleum companies that have been deposited in the account at the Federal Reserve Bank of New York established to ensure repayment of any payment by the United States Government, including the Board of Governors of the Federal Reserve System, in connection with any guarantee issued to, or any swap with, the Government of Mexico.

''(9) Any setoff by the Federal Reserve Bank of New York against funds in the account described in paragraph (8).

''(10) To the extent such information is available, once there has been a setoff by the Federal Reserve Bank of New York, any interruption in deliveries of petroleum products to existing customers whose payments were setoff.

''(11) The interest rates and fees charged to compensate the Secretary of the Treasury for the risk of providing financing.

''SEC. 405. TERMINATION OF REPORTING REQUIREMENTS.

''The requirements of sections 403 and 404 shall terminate on the date that the Government of Mexico has paid all obligations with respect to swap facilities and guarantees of securities made available under the program approved by the President on January 31, 1995.

''SEC. 406. PRESIDENTIAL CERTIFICATION REGARDING SWAP OF CURRENCIES TO MEXICO THROUGH EXCHANGE STABILIZATION FUND OR FEDERAL RESERVE.

''(a) IN GENERAL.—Notwithstanding any other provision of law, no loan, credit, guarantee, or arrangement for a swap of currencies to Mexico through the exchange stabilization fund or by the Board of Governors of the Federal Reserve System may be extended or (if already extended) further utilized, unless and until the President submits to the appropriate congressional committees a certification that—

''(1) there is no projected cost (as defined in the Credit Reform Act of 1990 [probably means the Federal Credit Reform Act of 1990, 2 U.S.C. 661 et seq.]) to the United States from the proposed loan, credit, guarantee, or currency swap;

''(2) all loans, credits, guarantees, and currency swaps are adequately backed to ensure that all United States funds are repaid;

''(3) the Government of Mexico is making progress in ensuring an independent central bank or an independent currency control mechanism;

''(4) Mexico has in effect a significant economic reform effort; and

''(5) the President has provided the documents described in paragraphs (1) through (28) of House Resolution 80, adopted March 1, 1995.

''(b) TREATMENT OF CLASSIFIED OR PRIVILEGED MATERIAL.—For purposes of the certification required by subsection (a)(5), the President shall specify, in the case of any document that is classified or subject to applicable privileges, that, while such document may not have been produced to the House of Representatives, in lieu thereof it has been produced to specified Members of Congress or their designees by mutual agreement among the President, the Speaker of the House, and the chairmen and ranking members of the Committee on Banking and Financial Services [now Committee on Financial Services], the Committee on International Relations [now Committee on Foreign Affairs], and the Permanent Select Committee on Intelligence of the House.

''SEC. 407. DEFINITIONS.

''For purposes of this title, the following definitions shall apply:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committees on International Relations [now Committee on Foreign Affairs] and Banking and Financial Services [now Committee on Financial Services] of the House of Representatives, the Committees on Foreign Relations and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

''(2) EXCHANGE STABILIZATION FUND.—The term 'exchange stabilization fund' means the stabilization fund referred to in section 5302(a)(1) of title 31, United States Code.''

CERTIFICATION REGARDING USE OF EXCHANGE STABILIZATION FUND AND FEDERAL RESERVE IN RELATION TO ECONOMIC CRISIS IN MEXICO

Memorandum of President of the United States, June 29, 1995, 60 F.R. 35113, provided:

Memorandum for the Secretary of the Treasury

On January 31, 1995, I approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in an amount not to exceed $20 billion, using the Exchange Stabilization Fund (the ''ESF program'').

By virtue of the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, and section 406 of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6) [set out above], I hereby certify that:

(1) There is no projected cost (as defined in the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]) to the United States from the proposed swap transaction.

(2) All loans, credits, guarantees, and currency swaps to Mexico from the Exchange Stabilization Fund or the Federal Reserve System are adequately backed to ensure that all United States funds are repaid.

(3) The Government of Mexico is making progress in ensuring an independent central bank.

(4) Mexico has in effect a significant economic reform effort.

(5) The Executive Branch has provided the documents requested by House Resolution 80 adopted March 1, 1995, and described in paragraphs (1) through (28) of that Resolution. All documents identified as responsive to the Resolution have been provided to the entire House of Representatives. Pursuant to the terms of the Resolution, the Executive Branch has not provided those documents as to which the Executive Branch has informed the House that it would be inconsistent with the public interest to provide the documents to the House. Pursuant to arrangements for safekeeping of classified materials in House facilities, classified documents have been provided to the House by making them available either at designated, secure House facilities or at Executive Branch facilities. Each agency, including the Federal Reserve Board, has advised the House of the procedures employed by that agency to provide the documents requested by House Resolution 80.

I have been informed that the Board of Governors of the Federal Reserve System has provided the documents requested by House Resolution 80 and described in paragraphs (1) through (28) of that Resolution.

I hereby delegate to you the reporting requirement contained in section 406 of Public Law 104–6 [set out above]. You are authorized and requested to report this certification immediately to the Speaker of the House and appropriate congressional committees, as defined in section 407 of Public Law 104–6 [set out above].

I also hereby delegate to you the reporting requirement contained in section 403 of Public Law 104–6 [set out above].

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

Prior certifications were contained in the following:

Memorandum of President of the United States, May 17, 1995, 60 F.R. 27395.

Memorandum of President of the United States, Apr. 14, 1995, 60 F.R. 19485.

## § 5303. Reserved coins and currencies of foreign countries

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5303 ..... | 31:938. | Oct. 15, 1966, Pub. L. 89–677, 80 Stat. 955. |

The word ''Federal'' is omitted as unnecessary because of the definition of ''agency'' in section 101 of the revised title. The words ''coins and'' and ''Government'' are added for consistency. The words ''or set aside'' and ''of the Government'' are omitted as surplus. The words ''The agency shall reimburse . . . shall replace'' are substituted for ''except (1) that reimbursement shall be made . . . (2) . . . shall be replaced'' for clarity. The words ''applicable . . . of the agency concerned'' are omitted as surplus. The words ''program or activity'' are substituted for ''purpose'' for clarity and consistency.

### § 5304. Regulations

With the approval of the President, the Secretary of the Treasury may prescribe regulations—

(1) to carry out section 5301 of this title; and

(2) the Secretary considers necessary to carry out section 5302 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 994.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5304 ..... | 31:822. | May 12, 1933, ch. 25, § 44, 48 Stat. 53. |
| | 31:822b. | Jan. 30, 1934, ch. 6, § 11, 48 Stat. 342. |

Before clause (1), the words ''prescribe regulations'' are substituted for ''make and promulgate rules and regulations'' in 31:822 and ''issue . . . such rules and regulations'' in 31:822b for consistency. In clause (1), the words ''to carry out'' are substituted for ''covering any action taken or to be taken by the President under'' in 31:822 to eliminate unnecessary words. In clause (2), the words ''or proper'' in 31:822b and ''the purposes of'' are omitted as surplus. Reference to 31:821 is omitted as obsolete because silver is no longer coined. Reference to 31:824 is omitted as obsolete because 31:824 is executed and is not part of the revised title.

## SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

### § 5311. Declaration of purpose

It is the purpose of this subchapter (except section 5315) to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 995; Pub. L. 107–56, title III, § 358(a), Oct. 26, 2001, 115 Stat. 326.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5311 ..... | 31:1051. | Oct. 26, 1970, Pub. L. 91–508, § 202, 84 Stat. 1118. |

AMENDMENTS

2001—Pub. L. 107–56 inserted ‘‘, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism'' before period at end.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107–56, set out as a note under section 1829b of Title 12, Banks and Banking.

SHORT TITLE

This subchapter and chapter 21 (§ 1951 et seq.) of Title 12, Banks and Banking, are each popularly known as the ''Bank Secrecy Act''. See Short Title note set out under section 1951 of Title 12.

IMPROVEMENT OF INTERNATIONAL STANDARDS AND COOPERATION TO FIGHT TERRORIST FINANCING

Pub. L. 108–458, title VII, §§ 7701, 7702, 7704, Dec. 17, 2004, 118 Stat. 3858–3860, provided that:

''SEC. 7701. IMPROVING INTERNATIONAL STANDARDS AND COOPERATION TO FIGHT TERRORIST FINANCING.

''(a) FINDINGS.—Congress makes the following findings:

''(1) The global war on terrorism and cutting off terrorist financing is a policy priority for the United States and its partners, working bilaterally and multilaterally through the United Nations, the United Nations Security Council and its committees, such as the 1267 and 1373 Committees, the Financial Action Task Force (FATF), and various international financial institutions, including the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), and the regional multilateral development banks, and other multilateral fora.

''(2) The international financial community has become engaged in the global fight against terrorist financing. The Financial Action Task Force has focused on the new threat posed by terrorist financing to the international financial system, resulting in the establishment of the FATF's Eight Special Recommendations on Terrorist Financing as the international standard on combating terrorist financing. The Group of Seven and the Group of Twenty Finance Ministers are developing action plans to curb the financing of terror. In addition, other economic and regional fora, such as the Asia-Pacific Economic Cooperation (APEC) Forum, and the Western Hemisphere Financial Ministers, have been used to marshal political will and actions in support of combating the financing of terrorism (CFT) standards.

''(3) FATF's Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing are the recognized global standards for fighting money laundering and terrorist financing. The FATF has engaged in an assessment process for jurisdictions based on their compliance with these standards.

''(4) In March 2004, the IMF and IBRD Boards agreed to make permanent a pilot program of collaboration with the FATF to assess global compliance with the FATF Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing. As a result, anti-money laundering (AML) and combating the financing of terrorism (CFT) assessments are now a regular part of their Financial Sector Assessment Program (FSAP) and Offshore Financial Center assessments, which provide for a comprehensive analysis of the strength of a jurisdiction's financial system. These reviews assess potential systemic vulnerabilities, consider sectoral development needs and priorities, and review the state of implementation of and compliance with key financial codes and regulatory standards, among them the AML and CFT standards.

''(5) To date, 70 FSAPs have been conducted, with over 24 of those incorporating AML and CFT assessments. The international financial institutions (IFIs), the FATF, and the FATF-style regional bodies together are expected to assess AML and CFT regimes in up to 40 countries or jurisdictions per year. This will help countries and jurisdictions identify deficiencies in their AML and CFT regimes and help focus technical assistance efforts.

''(6) Technical assistance programs from the United States and other nations, coordinated with the Department of State and other departments and agencies, are playing an important role in helping countries and jurisdictions address shortcomings in their AML and CFT regimes and bringing their regimes into conformity with international standards. Training is coordinated within the United States Government, which leverages multilateral organizations and bodies and international financial institutions to internationalize the conveyance of technical assistance.

''(7) In fulfilling its duties in advancing incorporation of AML and CFT standards into the IFIs as part of the IFIs' work on protecting the integrity of the international monetary system, the Department of the Treasury, under the guidance of the Secretary of the Treasury, has effectively brought together all of the key United States Government agencies. In particular, United States Government agencies continue to work together to foster broad support for this important undertaking in various multilateral fora, and United States Government agencies recognize the need for close coordination and communication within our own Government.

''(b) SENSE OF CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.—It is the sense of Congress that the Secretary of the Treasury should continue to promote the dissemination of international AML and CFT standards, and to press for full implementation of the FATF 40 + 8 Recommendations by all countries in order to curb financial risks and hinder terrorist financing around the globe. The efforts of the Secretary in this regard should include, where necessary or appropriate, multilateral action against countries whose counter-money laundering regimes and efforts against the financing of terrorism fall below recognized international standards.

''SEC. 7702. DEFINITIONS.

''In this subtitle [subtitle G (§§7701–7704) of title VII of Pub. L. 108–458, amending sections 262*o*–2 and 262r–4 of Title 22, Foreign Relations and Intercourse]—

''(1) the term 'international financial institutions' has the same meaning as in section 1701(c)(2) of the International Financial Institutions Act [22 U.S.C. 262r(c)(2)];

''(2) the term 'Financial Action Task Force' means the international policy-making and standard-setting body dedicated to combating money laundering and terrorist financing that was created by the Group of Seven in 1989; and

''(3) the terms 'Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System' and 'Interagency Paper' mean the interagency paper prepared by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

''SEC. 7704. COORDINATION OF UNITED STATES GOVERNMENT EFFORTS.

''The Secretary of the Treasury, or the designee of the Secretary, as the lead United States Government official to the Financial Action Task Force (FATF), shall continue to convene the interagency United States Government FATF working group. This group, which includes representatives from all relevant Federal agencies, shall meet at least once a year to advise the Secretary on policies to be pursued by the United States regarding the development of common international AML and CFT standards, to assess the adequacy and implementation of such standards, and to recommend to the Secretary improved or new standards, as necessary.''

INTERNATIONAL MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTI-TERRORISM ACT OF 2001; FINDINGS AND PURPOSES

Pub. L. 107–56, title III, §302, Oct. 26, 2001, 115 Stat. 296, as amended by Pub. L. 108–458, title VI, §6202(c), Dec. 17, 2004, 118 Stat. 3745, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) money laundering, estimated by the International Monetary Fund to amount to between 2 and 5 percent of global gross domestic product, which is at least $600,000,000,000 annually, provides the financial fuel that permits transnational criminal enterprises to conduct and expand their operations to the detriment of the safety and security of American citizens;

''(2) money laundering, and the defects in financial transparency on which money launderers rely, are critical to the financing of global terrorism and the provision of funds for terrorist attacks;

''(3) money launderers subvert legitimate financial mechanisms and banking relationships by using them as protective covering for the movement of criminal proceeds and the financing of crime and terrorism, and, by so doing, can threaten the safety of United States citizens and undermine the integrity of United States financial institutions and of the global financial and trading systems upon which prosperity and growth depend;

''(4) certain jurisdictions outside of the United States that offer 'offshore' banking and related facilities designed to provide anonymity, coupled with weak financial supervisory and enforcement regimes, provide essential tools to disguise ownership and movement of criminal funds derived from, or used to commit, offenses ranging from narcotics trafficking, terrorism, arms smuggling, and trafficking in human beings, to financial frauds that prey on law-abiding citizens;

''(5) transactions involving such offshore jurisdictions make it difficult for law enforcement officials and regulators to follow the trail of money earned by criminals, organized international criminal enterprises, and global terrorist organizations;

''(6) correspondent banking facilities are one of the banking mechanisms susceptible in some circumstances to manipulation by foreign banks to permit the laundering of funds by hiding the identity of real parties in interest to financial transactions;

''(7) private banking services can be susceptible to manipulation by money launderers, for example corrupt foreign government officials, particularly if those services include the creation of offshore accounts and facilities for large personal funds transfers to channel funds into accounts around the globe;

''(8) United States anti-money laundering efforts are impeded by outmoded and inadequate statutory provisions that make investigations, prosecutions, and forfeitures more difficult, particularly in cases in which money laundering involves foreign persons, foreign banks, or foreign countries;

''(9) the ability to mount effective counter-measures to international money launderers requires national, as well as bilateral and multilateral action, using tools specially designed for that effort; and

''(10) the Basle Committee on Banking Regulation and Supervisory Practices and the Financial Action Task Force on Money Laundering, of both of which the United States is a member, have each adopted international anti-money laundering principles and recommendations.

''(b) PURPOSES.—The purposes of this title [see Short Title of 2001 Amendment note set out under section 5301 of this title] are—

''(1) to increase the strength of United States measures to prevent, detect, and prosecute international money laundering and the financing of terrorism;

''(2) to ensure that—

''(A) banking transactions and financial relationships and the conduct of such transactions and relationships, do not contravene the purposes of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act [12 U.S.C. 1829b], or chapter 2 of title I of Public Law 91–508 (84 Stat. 1116) [12 U.S.C. 1951 et seq.], or facilitate the evasion of any such provision; and

''(B) the purposes of such provisions of law continue to be fulfilled, and such provisions of law are effectively and efficiently administered;

''(3) to strengthen the provisions put into place by the Money Laundering Control Act of 1986 (18 U.S.C. 981 note) [see Short Title of 1986 Amendment note set out under section 981 of Title 18, Crimes and Criminal Procedure], especially with respect to crimes by non-United States nationals and foreign financial institutions;

''(4) to provide a clear national mandate for subjecting to special scrutiny those foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts that pose particular, identifiable opportunities for criminal abuse;

''(5) to provide the Secretary of the Treasury (in this title referred to as the 'Secretary') with broad discretion, subject to the safeguards provided by the Administrative Procedure Act under title 5, United States Code [5 U.S.C. 551 et seq., 701 et seq.], to take measures tailored to the particular money laundering problems presented by specific foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts;

''(6) to ensure that the employment of such measures by the Secretary permits appropriate opportunity for comment by affected financial institutions;

''(7) to provide guidance to domestic financial institutions on particular foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts that are of primary money laundering concern to the United States Government;

''(8) to ensure that the forfeiture of any assets in connection with the anti-terrorist efforts of the United States permits for adequate challenge consistent with providing due process rights;

''(9) to clarify the terms of the safe harbor from civil liability for filing suspicious activity reports;

''(10) to strengthen the authority of the Secretary to issue and administer geographic targeting orders, and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91–508 [12 U.S.C. 1951 et seq.] and subchapter II of chapter 53 of title 31, United States Code, may result in criminal and civil penalties;

''(11) to ensure that all appropriate elements of the financial services industry are subject to appropriate requirements to report potential money laundering transactions to proper authorities, and that jurisdictional disputes do not hinder examination of compliance by financial institutions with relevant reporting requirements;

''(12) to strengthen the ability of financial institutions to maintain the integrity of their employee population; and

''(13) to strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.''

FOUR-YEAR CONGRESSIONAL REVIEW; EXPEDITED CONSIDERATION

Pub. L. 107–56, title III, § 303, Oct. 26, 2001, 115 Stat. 298, as amended by Pub. L. 108–458, title VI, § 6202(d), Dec. 17, 2004, 118 Stat. 3745, which provided that, effective on and after the first day of fiscal year 2005, the provisions of title III of Pub. L. 107–56 and the amendments made by such title would terminate if the Congress enacted a joint resolution, the text after the resolving clause of which was as follows: ''That provisions of the International Money Laundering Abatement and Financial Antiterrorism Act of 2001, and the amendments made thereby, shall no longer have the force of law.'', was repealed by Pub. L. 108–458, title VI, §§ 6204, 6205, Dec. 17, 2004, 118 Stat. 3747, effective as if included in Pub. L. 107–56, as of the date of enactment of such Act.

COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING

Pub. L. 107–56, title III, § 314, Oct. 26, 2001, 115 Stat. 307, as amended by Pub. L. 108–458, title VI, § 6202(f), Dec. 17, 2004, 118 Stat. 3745, provided that:

''(a) COOPERATION AMONG FINANCIAL INSTITUTIONS, REGULATORY AUTHORITIES, AND LAW ENFORCEMENT AUTHORITIES.—

''(1) REGULATIONS.—The Secretary [of the Treasury] shall, within 120 days after the date of enactment of this Act [Oct. 26, 2001], adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in, or reasonably suspected based on credible evidence of engaging in, terrorist acts or money laundering activities.

''(2) COOPERATION AND INFORMATION SHARING PROCEDURES.—The regulations adopted under paragraph (1) may include or create procedures for cooperation and information sharing focusing on—

''(A) matters specifically related to the finances of terrorist groups, the means by which terrorist groups transfer funds around the world and within the United States, including through the use of charitable organizations, nonprofit organizations, and nongovernmental organizations, the extent to which financial institutions in the United States are unwittingly involved in such finances, and the extent to which such institutions are at risk as a result;

''(B) the relationship, particularly the financial relationship, between international narcotics traffickers and foreign terrorist organizations, the extent to which their memberships overlap and engage in joint activities, and the extent to which they cooperate with each other in raising and transferring funds for their respective purposes; and

''(C) means of facilitating the identification of accounts and transactions involving terrorist groups and facilitating the exchange of information concerning such accounts and transactions between financial institutions and law enforcement organizations.

''(3) CONTENTS.—The regulations adopted pursuant to paragraph (1) may—

''(A) require that each financial institution designate 1 or more persons to receive information concerning, and monitor accounts of, individuals, entities, and organizations identified pursuant to paragraph (1); and

''(B) further establish procedures for the protection of the shared information, consistent with the capacity, size, and nature of the financial institution to which the particular procedures apply.

''(4) RULE OF CONSTRUCTION.—The receipt of information by a financial institution pursuant to this section shall not relieve or otherwise modify the obligations of the financial institution with respect to any other person or account.

''(5) USE OF INFORMATION.—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve terrorist acts or money laundering activities.

''(b) COOPERATION AMONG FINANCIAL INSTITUTIONS.—Upon notice provided to the Secretary, 2 or more finan-

cial institutions and any association of financial institutions may share information with one another regarding individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities. A financial institution or association that transmits, receives, or shares such information for the purposes of identifying and reporting activities that may involve terrorist acts or money laundering activities shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure, or any other person identified in the disclosure, except where such transmission, receipt, or sharing violates this section or regulations promulgated pursuant to this section.

''(c) RULE OF CONSTRUCTION.—Compliance with the provisions of this title [see Short Title of 2001 Amendment note set out under section 5301 of this title] requiring or allowing financial institutions and any association of financial institutions to disclose or share information regarding individuals, entities, and organizations engaged in or suspected of engaging in terrorist acts or money laundering activities shall not constitute a violation of the provisions of title V of the Gramm-Leach-Bliley Act (Public Law 106–102) [15 U.S.C. 6801 et seq.].

''(d) REPORTS TO THE FINANCIAL SERVICES INDUSTRY ON SUSPICIOUS FINANCIAL ACTIVITIES.—At least semiannually, the Secretary shall—

''(1) publish a report containing a detailed analysis identifying patterns of suspicious activity and other investigative insights derived from suspicious activity reports and investigations conducted by Federal, State, and local law enforcement agencies to the extent appropriate; and

''(2) distribute such report to financial institutions (as defined in section 5312 of title 31, United States Code).''

REPORT AND RECOMMENDATION ON LEGISLATIVE ACTION ON INTERNATIONAL COUNTER MONEY LAUNDERING PROVISIONS

Pub. L. 107–56, title III, § 324, Oct. 26, 2001, 115 Stat. 316, provided that: ''Not later than 30 months after the date of enactment of this Act [Oct. 26, 2001], the Secretary [of the Treasury], in consultation with the Attorney General, the Federal banking agencies (as defined at section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]), the National Credit Union Administration Board, the Securities and Exchange Commission, and such other agencies as the Secretary may determine, at the discretion of the Secretary, shall evaluate the operations of the provisions of this subtitle [subtitle A (§§ 311–330) of title III of Pub. L. 107–56, enacting section 5318A of this title, amending sections 5312 and 5318 of this title, sections 1828 and 1842 of Title 12, Banks and Banking, sections 981, 983, and 1956 of Title 18, Crimes and Criminal Procedure, section 853 of Title 21, Food and Drugs, and sections 2466 and 2467 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under this section and section 5318 of this title, sections 1828 and 1842 of Title 12, and section 983 of Title 18] and make recommendations to Congress as to any legislative action with respect to this subtitle as the Secretary may determine to be necessary or advisable.''

INTERNATIONAL COOPERATION ON IDENTIFICATION OF ORIGINATORS OF WIRE TRANSFERS

Pub. L. 107–56, title III, § 328, Oct. 26, 2001, 115 Stat. 319, provided that: ''The Secretary [of the Treasury] shall—

''(1) in consultation with the Attorney General and the Secretary of State, take all reasonable steps to encourage foreign governments to require the inclusion of the name of the originator in wire transfer instructions sent to the United States and other countries, with the information to remain with the transfer from its origination until the point of disbursement; and

''(2) report annually to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on—

''(A) progress toward the goal enumerated in paragraph (1), as well as impediments to implementation and an estimated compliance rate; and

''(B) impediments to instituting a regime in which all appropriate identification, as defined by the Secretary, about wire transfer recipients shall be included with wire transfers from their point of origination until disbursement.''

CRIMINAL PENALTIES

Pub. L. 107–56, title III, § 329, Oct. 26, 2001, 115 Stat. 319, provided that: ''Any person who is an official or employee of any department, agency, bureau, office, commission, or other entity of the Federal Government, and any other person who is acting for or on behalf of any such entity, who, directly or indirectly, in connection with the administration of this title [see Short Title of 2001 Amendment note set out under section 5301 of this title], corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

''(1) being influenced in the performance of any official act;

''(2) being influenced to commit or aid in the committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

''(3) being induced to do or omit to do any act in violation of the official duty of such official or person,

shall be fined in an amount not more than 3 times the monetary equivalent of the thing of value, or imprisoned for not more than 15 years, or both. A violation of this section shall be subject to chapter 227 of title 18, United States Code, and the provisions of the United States Sentencing Guidelines.''

REPORT ON INVESTMENT COMPANIES

Pub. L. 107–56, title III, § 356(c), Oct. 26, 2001, 115 Stat. 324, as amended by Pub. L. 108–458, title VI, § 6202(j), Dec. 17, 2004, 118 Stat. 3746, provided that:

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 26, 2001], the Secretary [of the Treasury], the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission shall jointly submit a report to the Congress on recommendations for effective regulations to apply the requirements of subchapter II of chapter 53 of title 31, United States Code, to investment companies pursuant to section 5312(a)(2)(I) of title 31, United States Code.

''(2) DEFINITION.—For purposes of this subsection, the term 'investment company'—

''(A) has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3); and

''(B) includes any person that, but for the exceptions provided for in paragraph (1) or (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)), would be an investment company.

''(3) ADDITIONAL RECOMMENDATIONS.—The report required by paragraph (1) may make different recommendations for different types of entities covered by this subsection.

''(4) BENEFICIAL OWNERSHIP OF PERSONAL HOLDING COMPANIES.—The report described in paragraph (1) shall also include recommendations as to whether the Secretary should promulgate regulations to treat any corporation, business trust, or other grantor trust whose assets are predominantly securities, bank certificates

of deposit, or other securities or investment instruments (other than such as relate to operating subsidiaries of such corporation or trust) and that has 5 or fewer common shareholders or holders of beneficial or other equity interest, as a financial institution within the meaning of that phrase in section 5312(a)(2)(I) and whether to require such corporations or trusts to disclose their beneficial owners when opening accounts or initiating funds transfers at any domestic financial institution.''

REPORT ON NEED FOR ADDITIONAL LEGISLATION RELATING TO INFORMAL MONEY TRANSFER SYSTEMS

Pub. L. 107–56, title III, § 359(d), Oct. 26, 2001, 115 Stat. 329, provided that: ''Not later than 1 year after the date of enactment of this Act [Oct. 26, 2001], the Secretary of the Treasury shall report to Congress on the need for any additional legislation relating to persons who engage as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system, counter money laundering and regulatory controls relating to underground money movement and banking systems, including whether the threshold for the filing of suspicious activity reports under section 5318(g) of title 31, United States Code should be lowered in the case of such systems.''

UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES

Pub. L. 103–325, title IV, § 407, Sept. 23, 1994, 108 Stat. 2247, provided that:

''(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

''(1) establish uniform laws for licensing and regulating businesses which—

''(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers' checks, and other similar instruments; and

''(B) are not depository institutions (as defined in section 5313(g) of title 31, United States Code); and

''(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

''(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

''(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

''(2) LICENSING STANDARDS.—A requirement that—

''(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

''(i) the business record and the capital adequacy of the business seeking the license; and

''(ii) the competence, experience, integrity, and financial ability of any individual who—

''(I) is a director, officer, or supervisory employee of such business; or

''(II) owns or controls such business; and

''(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

''(i) any criminal activity;

''(ii) any fraud or other act of personal dishonesty;

''(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

''(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business,

may be grounds for the denial of any such license by the appropriate State agency.

''(3) REPORTING REQUIREMENTS.—A requirement that any business described in subsection (a)(1)—

''(A) disclose to the appropriate State agency the fees charged to consumers for services described in subsection (a)(1)(A); and

''(B) conspicuously disclose to the public, at each location of such business, the fees charged to consumers for such services.

''(4) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

''(5) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of enactment of such model statute by the State.

''(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

''(1) the progress made by the several States in developing and enacting a model statute which—

''(A) meets the requirements of subsection (b); and

''(B) furthers the goals of—

''(i) preventing money laundering by businesses which are required to be licensed under any such statute; and

''(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

''(2) the adequacy of—

''(A) the activity of the several States in enforcing the requirements of such statute; and

''(B) the resources made available to the appropriate State agencies for such enforcement activity.

''(d) REPORT REQUIRED.—Not later than the end of the 3-year period beginning on the date of enactment of this Act [Sept. 23, 1994] and not later than the end of each of the first two 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

''(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable to—

''(1) enact a statute which meets the requirements described in subsection (b);

''(2) undertake adequate activity to enforce such statute; or

''(3) make adequate resources available to the appropriate State agency for such enforcement activity,

the report submitted pursuant to subsection (d) shall contain recommendations of the Secretary which are designed to facilitate the enactment and enforcement by the State of such a statute.

''(f) FEDERAL FUNDING STUDY.—

''(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs which

will be incurred by the States in carrying out the purposes of this section.

''(2) REPORT.—The Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to paragraph (1) not later than the end of the 18-month period beginning on the date of enactment of this Act [Sept. 23, 1994].''

ANTI-MONEY LAUNDERING TRAINING TEAM

Pub. L. 102–550, title XV, § 1518, Oct. 28, 1992, 106 Stat. 4060, provided that: ''The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.''

ADVISORY GROUP ON REPORTING REQUIREMENTS

Pub. L. 102–550, title XV, § 1564, Oct. 28, 1992, 106 Stat. 4073, provided that:

''(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act [Oct. 28, 1992], the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986 [26 U.S.C. 6050I].

''(b) PURPOSES.—The Advisory Group shall provide a means by which the Secretary—

''(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

''(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

''(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

''(c) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act [5 U.S.C. App.] shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).''

GAO FEASIBILITY STUDY OF FINANCIAL CRIMES ENFORCEMENT NETWORK

Pub. L. 102–550, title XV, § 1565, Oct. 28, 1992, 106 Stat. 4074, provided that:

''(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as 'Fincen') established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

''(b) SPECIFIC REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

''(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

''(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

''(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

''(A) who is to be given access to the information in the system;

''(B) what limits are to be imposed on the use of such information; and

''(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

''(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

''(c) REPORT TO CONGRESS.—Before the end of the 1-year period, beginning on the date of the enactment of this Act [Oct. 28, 1992], the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.''

REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS

Pub. L. 101–647, title I, § 101, Nov. 29, 1990, 104 Stat. 4789, provided that: ''Not later than 180 days after the effective date of this section [Nov. 29, 1990], and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

''(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

''(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 [26 U.S.C. 6050I] (regarding transactions involving currency) in the previous fiscal year;

''(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

''(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

''(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

''(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

''(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.''

INTERNATIONAL CURRENCY TRANSACTION REPORTING

Pub. L. 100–690, title IV, § 4701, Nov. 18, 1988, 102 Stat. 4290, stated Congressional findings concerning success of cash transaction and money laundering control statutes in United States and desirability of United States playing a leadership role in development of similar international system, urged United States Government to seek active cooperation of other countries in enforcement of such statutes, urged Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency to serve as central source of information

and database for international drug enforcement agencies to collect and analyze currency transaction reports filed by member countries, and encouraged adoption, by member countries, of uniform cash transaction and money laundering statutes, prior to repeal by Pub. L. 102–583, § 6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY

Pub. L. 100–690, title IV, § 4702, Nov. 18, 1988, 102 Stat. 4291, as amended by Pub. L. 103–447, title I, § 103(b), Nov. 2, 1994, 108 Stat. 4693, provided that:

''(a) FINDINGS.—The Congress finds that international currency transactions, especially in United States currency, that involve the proceeds of narcotics trafficking fuel trade in narcotics in the United States and worldwide and consequently are a threat to the national security of the United States.

''(b) PURPOSE.—The purpose of this section is to provide for international negotiations that would expand access to information on transactions involving large amounts of United States currency wherever those transactions occur worldwide.

''(c) NEGOTIATIONS.—(1) The Secretary of the Treasury (hereinafter in this section referred to as the 'Secretary') shall enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business in United States currency. Highest priority shall be attached to countries whose financial institutions the Secretary determines, in consultation with the Attorney General and the Director of National Drug Control Policy, may be engaging in currency transactions involving the proceeds of international narcotics trafficking, particularly United States currency derived from drug sales in the United States.

''(2) The purposes of negotiations under this subsection are—

''(A) to reach one or more international agreements to ensure that foreign banks and other financial institutions maintain adequate records of large United States currency transactions, and

''(B) to establish a mechanism whereby such records may be made available to United States law enforcement officials.

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

''(d) REPORTS.—Not later than 1 year after the date of enactment of this Act [Nov. 18, 1988], the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

''(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

''(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

''(e) AUTHORITY.—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

''(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect [affect] the United States involving the proceeds of international narcotics trafficking;

''(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

''(3) such country is not negotiating in good faith to reach such an agreement,

the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

''(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

''(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

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

''(1) The term 'United States currency' means Federal Reserve Notes and United States coins.

''(2) The term 'adequate records' means records of United States' currency transactions in excess of $10,000 including the identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.''

INTERNATIONAL INFORMATION EXCHANGE SYSTEM; STUDY OF FOREIGN BRANCHES OF DOMESTIC INSTITUTIONS

Pub. L. 99–570, title I, § 1363, Oct. 27, 1986, 100 Stat. 3207–33, required the Secretary of the Treasury to initiate discussions with the central banks or other appropriate governmental authorities of other countries and propose that an information exchange system be established to reduce international flow of money derived from illicit drug operations and other criminal activities and to report to Congress before the end of the 9-month period beginning Oct. 27, 1986. The Secretary of the Treasury was also required to conduct a study of (1) the extent to which foreign branches of domestic institutions are used to facilitate illicit transfers of or to evade reporting requirements on transfers of coins, currency, and other monetary instruments into and out of the United States; (2) the extent to which the law of the United States is applicable to the activities of such foreign branches; and (3) methods for obtaining the cooperation of the country in which any such foreign branch is located for purposes of enforcing the law of the United States with respect to transfers, and reports on transfers, of such monetary instruments into and out of the United States and to report to Congress before the end of the 9-month period beginning Oct. 27, 1986.

## § 5312. Definitions and application

(a) In this subchapter—

(1) ''financial agency'' means a person acting for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(2) ''financial institution'' means—

(A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) a commercial bank or trust company;

(C) a private banker;

(D) an agency or branch of a foreign bank in the United States;

(E) any credit union;

(F) a thrift institution;

(G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(H) a broker or dealer in securities or commodities;

(I) an investment banker or investment company;

(J) a currency exchange;

(K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(L) an operator of a credit card system;

(M) an insurance company;

(N) a dealer in precious metals, stones, or jewels;

(O) a pawnbroker;

(P) a loan or finance company;

(Q) a travel agency;

(R) a licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;

(S) a telegraph company;

(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

(U) persons involved in real estate closings and settlements;

(V) the United States Postal Service;

(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;

(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);

(Y) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(Z) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

(3) ''monetary instruments'' means—

(A) United States coins and currency;

(B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material; and

(C) as the Secretary of the Treasury shall provide by regulation for purposes of sections 5316 and 5331, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.

(4) NONFINANCIAL TRADE OR BUSINESS.—The term ''nonfinancial trade or business'' means any trade or business other than a financial institution that is subject to the reporting requirements of section 5313 and regulations prescribed under such section.

(5) ''person'', in addition to its meaning under section 1 of title 1, includes a trustee, a representative of an estate and, when the Secretary prescribes, a governmental entity.

(6) ''United States'' means the States of the United States, the District of Columbia, and, when the Secretary prescribes by regulation, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, a territory or possession of the United States, or a military or diplomatic establishment.

(b) In this subchapter—

(1) ''domestic financial agency'' and ''domestic financial institution'' apply to an action in the United States of a financial agency or institution.

(2) ''foreign financial agency'' and ''foreign financial institution'' apply to an action outside the United States of a financial agency or institution.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subchapter, the following definitions shall apply:

(1)[1] CERTAIN INSTITUTIONS INCLUDED IN DEFINITION.—The term ''financial institution'' (as defined in subsection (a)) includes the following:

(A)[2] Any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 995; Pub. L. 99–570, title I, § 1362, Oct. 27, 1986, 100 Stat. 3207–33; Pub. L. 100–690, title VI, § 6185(a), (g)(1), Nov. 18, 1988, 102 Stat. 4354, 4357; Pub. L. 103–325, title IV, §§ 405, 409, Sept. 23, 1994, 108 Stat. 2247, 2252; Pub. L. 107–56, title III, §§ 321(a), (b), 359(a), 365(c)(1), (2)(A), Oct. 26, 2001, 115 Stat. 315, 328, 335; Pub. L. 108–458, title VI, §§ 6202(g), 6203(b), Dec. 17, 2004, 118 Stat. 3746.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5312(a)(1) | 31:1052(a), (b), (g), (i). | Oct. 26, 1970, Pub. L. 91–508, § 203(a)–(i), (*l*), 84 Stat. 1118. |
| 5312(a)(2) | 31:1052(e). | |
| 5312(a)(3) | 31:1052(*l*). | |
| 5312(a)(4) | 31:1052(c). | |
| 5312(a)(5) | 31:1052(d). | |
| 5312(b) ..... | 31:1052(f), (h). | |

[1] So in original. No par. (2) has been enacted.

[2] So in original. No subpar. (B) has been enacted.

In subsection (a)(1), the text of 31:1052(a) is omitted as unnecessary. The text of 31:1052(b) is omitted because of the restatement. The text of 31:1052(i) is omitted as unnecessary because the source provision is restated where necessary in the revised subchapter.

In subsection (a)(2), (3), (4), and (5), the words ''the Secretary . . . prescribes'' are substituted for ''specified by the Secretary by regulation'', ''as the Secretary may by regulation specify'', ''specified by the Secretary'', and ''the Secretary shall by regulation specify'' for consistency.

In subsection (a)(2) and (3), the words ''for the purposes of the provision of this chapter to which the regulation relates'' are omitted as surplus.

In subsection (a)(2), before subclause (A), the words ''any person which does business in any one or more of the following capacities'' are omitted as surplus. In subclause (F), the words ''savings bank, building and loan association, credit union, industrial bank, or other'' are omitted as surplus. In subclause (T), the words ''agency of the United States Government or of a State or local government'' are substituted for ''Federal, State, or local government institution'' for consistency. In subclause (U), the words ''type of'' are omitted as surplus. The word ''agency'' is substituted for ''institution'' for consistency.

In subsection (a)(3)(B)–(5), the word ''prescribe'' is substituted for ''specify'' for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3)(B), the words ''in addition'', and ''and such types of'' are omitted as surplus. The words ''similar material'' are substituted for ''the equivalent thereof'' for clarity.

In subsection (a)(4), the words ''in addition to its meaning under section 1 of title 1'' are substituted for ''natural persons, partnerships, . . . associations, corporations, and all entities cognizable as legal personalities'' for consistency because 1:1 is applicable to all laws unless otherwise provided. The words ''a trustee, a representative of an estate'' are substituted for ''trusts, estates'', and the word ''entity'' is substituted for ''department or agency'', for consistency. The words ''either for the purpose of this chapter generally or any particular requirement thereunder'' are omitted as surplus.

In subsection (a)(5), the words ''used in a geographic sense'' are omitted because of the restatement. The words ''either for the purposes of this chapter generally or any particular requirement thereunder'' are omitted as surplus. The words ''territory or'' are added for consistency.

Subsection (b) is substituted for 31:1052(f) and (h) to eliminate unnecessary words and for consistency.

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (a)(2)(G), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Indian Gaming Regulatory Act, referred to in subsec. (a)(2)(X)(ii), is Pub. L. 100–497, Oct. 17, 1988, 102 Stat. 2467, as amended, which is classified principally to chapter 29 (§ 2701 et seq.) of Title 25, Indians. Section 4(6) of the Act is classified to section 2703(6) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Commodity Exchange Act, referred to in subsec. (c)(1)(A), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§ 1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

AMENDMENTS

2004—Subsec. (a)(2)(E). Pub. L. 108–458, § 6202(g), made technical correction to directory language of Pub. L. 107–56, § 321(a). See 2001 Amendment note below.

Subsec. (a)(3)(C). Pub. L. 108–458, § 6203(b), substituted ''sections 5316 and 5331'' for ''sections 5333 and 5316''.

2001—Subsec. (a)(2)(E). Pub. L. 107–56, § 321(a), as amended by Pub. L. 108–458, § 6202(g), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''an insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)));''.

Subsec. (a)(2)(R). Pub. L. 107–56, § 359(a), amended subpar. (R) generally. Prior to amendment, subpar. (R) read as follows: ''a licensed sender of money;''.

Subsec. (a)(3)(C). Pub. L. 107–56, § 365(c)(2)(A), substituted ''sections 5333 and 5316,'' for ''section 5316,''.

Subsec. (a)(4) to (6). Pub. L. 107–56, § 365(c)(1), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (c). Pub. L. 107–56, § 321(b), added subsec. (c).

1994—Subsec. (a)(2)(X) to (Z). Pub. L. 103–325, § 409, added subpar. (X) and redesignated former subpars. (X) and (Y) as (Y) and (Z), respectively.

Subsec. (a)(3)(C). Pub. L. 103–325, § 405, added subpar. (C).

1988—Subsec. (a)(2)(T) to (Y). Pub. L. 100–690, § 6185(a), added subpars. (T) to (Y) and struck out former subpars. (T) and (U) which read as follows:

''(T) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2), including the United States Postal Service; or

''(U) another business or agency carrying out a similar, related, or substitute duty or power the Secretary of the Treasury prescribes.''

Subsec. (a)(5). Pub. L. 100–690, § 6185(g)(1), inserted a comma after ''Puerto Rico'' and struck out second comma after ''Pacific Islands''.

1986—Subsec. (a)(2)(T). Pub. L. 99–570, § 1362(a), which directed that the Postal Service be included within United States agencies by amending subsec. (a)(2)(U) of this section by inserting before the semicolon at the end thereof the following '', including the United States Postal Service'', was executed to subsec. (a)(2)(T) of this section as the probable intent of Congress, because subsec. (a)(2)(U) does not contain a semicolon and subsec. (a)(2)(T) relates to United States agencies.

Subsec. (a)(5). Pub. L. 99–570, § 1362(b), inserted ''the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands,'' after ''Puerto Rico''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

## § 5313. Reports on domestic coins and currency transactions

(a) When a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe shall file a report on the transaction at the time and in the way the Secretary pre-

scribes. A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

(b) The Secretary may designate a domestic financial institution as an agent of the United States Government to receive a report under this section. However, the Secretary may designate a domestic financial institution that is not insured, chartered, examined, or registered as a domestic financial institution only if the institution consents. The Secretary may suspend or revoke a designation for a violation of this subchapter or a regulation under this subchapter (except a violation of section 5315 of this title or a regulation prescribed under section 5315), section 411[1] of the National Housing Act (12 U.S.C. 1730d), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b).

(c)(1) A person (except a domestic financial institution designated under subsection (b) of this section) required to file a report under this section shall file the report—

(A) with the institution involved in the transaction if the institution was designated;

(B) in the way the Secretary prescribes when the institution was not designated; or

(C) with the Secretary.

(2) The Secretary shall prescribe—

(A) the filing procedure for a domestic financial institution designated under subsection (b) of this section; and

(B) the way the institution shall submit reports filed with it.

(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and the following categories of entities:

(A) Another depository institution.

(B) A department or agency of the United States, any State, or any political subdivision of any State.

(C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States or any such State or political subdivision.

(D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

(2) NOTICE OF EXEMPTION.—The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a).

(e) DISCRETIONARY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury may exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

(2) QUALIFIED BUSINESS CUSTOMER DEFINED.—For purposes of this subsection, the term ''qualified business customer'' means a business which—

(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

(3) CRITERIA FOR EXEMPTION.—The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

(4) GUIDELINES.—

(A) IN GENERAL.—The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

(B) CONTENTS.—The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this subsection to any depository institution.

(5) ANNUAL REVIEW.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to—

(A) review, at least once each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

(6) 2-YEAR PHASE-IN PROVISION.—During the 2-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

(f) PROVISIONS APPLICABLE TO MANDATORY AND DISCRETIONARY EXEMPTIONS.—

(1) LIMITATION ON LIABILITY OF DEPOSITORY INSTITUTIONS.—No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to

[1] See References in Text note below.

a transaction with a customer for whom an exemption has been granted under subsection (d) or (e) unless the institution—

(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

(2) COORDINATION WITH OTHER PROVISIONS.—Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including—

(A) the authority of the Secretary, under section 5318(a)(6), to revoke such exemption at any time; and

(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

(g) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term ''depository institution''—

(1) has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act; and

(2) includes—

(A) any branch, agency, or commercial lending company (as such terms are defined in section 1(b) of the International Banking Act of 1978);

(B) any corporation chartered under section 25A of the Federal Reserve Act; and

(C) any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 996; Pub. L. 103–325, title IV, § 402(a), Sept. 23, 1994, 108 Stat. 2243.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5313(a) ..... | 31:1081. | Oct. 26, 1970, Pub. L. 91–508, §§ 221–223, 84 Stat. 1122. |
| | 31:1082. | |
| 5313(b) ..... | 31:1083(a). | |
| 5313(c) ..... | 31:1083(b). | |

In subsection (a), the words ''coins or'' are added, and the words ''prescribe'' and ''prescribes'' are substituted for ''specify'' in 31:1081, and ''require'', for consistency. The words ''other parties thereto or'' in 31:1082 are omitted as surplus. The words ''to the Secretary'' in 31:1081 are omitted as unnecessary and for clarity. The words ''in such detail'' are omitted as surplus. The words ''A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made'' are substituted for 31:1082(last sentence) for clarity and to eliminate unnecessary words.

In subsection (b), the words ''in his discretion'' and ''individually or by class'' are omitted as surplus. The word ''Government'' is added for consistency. The words ''or a regulation under this subchapter'', are added because of the restatement. The words ''(except a violation of section 5315 of this title or a regulation prescribed under section 5315)'' are added because 31:1141–1143 was not enacted as a part of the Currency and Foreign Transactions Reporting Act that is restated in this subchapter.

In subsection (c)(1), clause (A) is substituted for ''with respect to a domestic financial institution . . . with that institution'' for clarity. Clause (C) is substituted for ''any such person may, at his election and in lieu of filing the report in the manner hereinabove prescribed, file the report with the Secretary'' to eliminate unnecessary words.

REFERENCES IN TEXT

Section 411 of the National Housing Act, referred to in subsec. (b), which was classified to section 1730d of Title 12, Banks and Banking, was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

Section 19(b)(1)(A) and (C) of the Federal Reserve Act, referred to in subsecs. (e)(2)(A) and (g)(1), is classified to section 461(b)(1)(A) and (C) of Title 12.

The date of enactment of the Money Laundering Suppression Act of 1994, referred to in subsec. (e)(6), is the date of enactment of title IV of Pub. L. 103–325, which was approved Sept. 23, 1994.

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (g)(2)(A), is classified to section 3101 of Title 12.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (g)(2)(B), (C), are classified to subchapters I (§§ 601 et seq.) and II (§§ 611 et seq.), respectively, of chapter 6 of Title 12.

AMENDMENTS

1994—Subsecs. (d) to (g). Pub. L. 103–325 added subsecs. (d) to (g).

EFFICIENT USE OF CURRENCY TRANSACTION REPORT SYSTEM

Pub. L. 107–56, title III, § 366, Oct. 26, 2001, 115 Stat. 335, provided that:

''(a) FINDINGS.—The Congress finds the following:

''(1) The Congress established the currency transaction reporting requirements in 1970 because the Congress found then that such reports have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings and the usefulness of such reports has only increased in the years since the requirements were established.

''(2) In 1994, in response to reports and testimony that excess amounts of currency transaction reports were interfering with effective law enforcement, the Congress reformed the currency transaction report exemption requirements to provide—

''(A) mandatory exemptions for certain reports that had little usefulness for law enforcement, such as cash transfers between depository institutions and cash deposits from government agencies; and

''(B) discretionary authority for the Secretary of the Treasury to provide exemptions, subject to criteria and guidelines established by the Secretary, for financial institutions with regard to regular business customers that maintain accounts at an institution into which frequent cash deposits are made.

''(3) Today there is evidence that some financial institutions are not utilizing the exemption system, or are filing reports even if there is an exemption in effect, with the result that the volume of currency transaction reports is once again interfering with effective law enforcement.

''(b) STUDY AND REPORT.—

''(1) STUDY REQUIRED.—The Secretary shall conduct a study of—

''(A) the possible expansion of the statutory exemption system in effect under section 5313 of title 31, United States Code; and

''(B) methods for improving financial institution utilization of the statutory exemption provisions as

a way of reducing the submission of currency transaction reports that have little or no value for law enforcement purposes, including improvements in the systems in effect at financial institutions for regular review of the exemption procedures used at the institution and the training of personnel in its effective use.

''(2) REPORT REQUIRED.—The Secretary of the Treasury shall submit a report to the Congress before the end of the 1-year period beginning on the date of enactment of this Act [Oct. 26, 2001] containing the findings and conclusions of the Secretary with regard to the study required under subsection (a), and such recommendations for legislative or administrative action as the Secretary determines to be appropriate.''

REPORT REDUCTION GOAL; STREAMLINED CURRENCY TRANSACTION REPORTS

Section 402(b), (c) of Pub. L. 103–325 provided that:

''(b) REPORT REDUCTION GOAL; REPORTS.—

''(1) IN GENERAL.—In implementing the amendment made by subsection (a) [amending this section], the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by at least 30 percent of the number filed during the year preceding the date of enactment of this Act [Sept. 23, 1994].

''(2) INTERIM REPORT.—The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

''(3) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistent with the purposes of such section and effective law enforcement.

''(c) STREAMLINED CURRENCY TRANSACTION REPORTS.—The Secretary of the Treasury shall take such action as may be appropriate to—

''(1) redesign the format of reports required to be filed under section 5313(a) of title 31, United States Code, by any financial institution (as defined in section 5312(a)(2) of such title) to eliminate the need to report information which has little or no value for law enforcement purposes; and

''(2) reduce the time and effort required to prepare such report for filing by any such financial institution under such section.''

## § 5314. Records and reports on foreign financial agency transactions

(a) Considering the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency, the Secretary of the Treasury shall require a resident or citizen of the United States or a person in, and doing business in, the United States, to keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency. The records and reports shall contain the following information in the way and to the extent the Secretary prescribes:

(1) the identity and address of participants in a transaction or relationship.

(2) the legal capacity in which a participant is acting.

(3) the identity of real parties in interest.

(4) a description of the transaction.

(b) The Secretary may prescribe—

(1) a reasonable classification of persons subject to or exempt from a requirement under this section or a regulation under this section;

(2) a foreign country to which a requirement or a regulation under this section applies if the Secretary decides applying the requirement or regulation to all foreign countries is unnecessary or undesirable;

(3) the magnitude of transactions subject to a requirement or a regulation under this section;

(4) the kind of transaction subject to or exempt from a requirement or a regulation under this section; and

(5) other matters the Secretary considers necessary to carry out this section or a regulation under this section.

(c) A person shall be required to disclose a record required to be kept under this section or under a regulation under this section only as required by law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 997.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5314(a) ..... | 31:1121(a). | Oct. 26, 1970, Pub. L. 91–508, §§241, 242, 84 Stat. 1124. |
| 5314(b) ..... | 31:1122. | |
| 5314(c) ..... | 31:1121(b). | |

In subsection (a), before clause (1), the words ''currency or other'', ''legitimately'', ''by regulation'', and ''directly or indirectly'' are omitted as surplus. The words ''for any person'' are substituted for ''on behalf of himself or another'' to eliminate unnecessary words. The words ''and to the extent'' are substituted for ''and in such detail'' for clarity. In clauses (1) and (2), the words ''participants'' and ''participant'' are substituted for ''parties'' for consistency. In clause (2), the words ''to the transaction or relationship'' are omitted as surplus. In clause (3), the words ''if one or more of the parties are not acting solely as principals'' are omitted as surplus. In clause (4), the words ''including the amounts of money, credit, or other property involved'' are omitted as surplus.

In subsection (b), the words ''or a regulation under this section'' are added because of the restatement. The words ''or does not apply'' and ''uniform'' in clause (2) are omitted as surplus. In clause (5), the words ''carry out'' are substituted for ''the application of'' for consistency.

In subsection (c), the words ''produce or otherwise . . . the contents of'' and ''in compliance with a subpena or summons duly authorized and issued or . . . may otherwise be'' are omitted as surplus. The words ''under a regulation'' are added because of the restatement.

COMPLIANCE WITH REPORTING REQUIREMENTS

Pub. L. 107–56, title III, §361(b), Oct. 26, 2001, 115 Stat. 332, provided that: ''The Secretary of the Treasury shall study methods for improving compliance with the reporting requirements established in section 5314 of title 31, United States Code, and shall submit a report on such study to the Congress by the end of the 6-month period beginning on the date of enactment of this Act [Oct. 26, 2001] and each 1-year period thereafter. The initial report shall include historical data on compliance with such reporting requirements.''

## § 5315. Reports on foreign currency transactions

(a) Congress finds that—

(1) moving mobile capital can have a significant impact on the proper functioning of the international monetary system;

(2) it is important to have the most feasible current and complete information on the kind and source of capital flows, including transactions by large United States businesses and their foreign affiliates; and

(3) additional authority should be provided to collect information on capital flows under section 5(b) of the Trading With the Enemy Act (50 App. U.S.C. 5(b)) and section 8 of the Bretton Woods Agreement Act (22 U.S.C. 286f).

(b) In this section, ''United States person'' and ''foreign person controlled by a United States person'' have the same meanings given those terms in section 7(f)(2)(A) and (C), respectively, of the Securities and Exchange Act of 1934 (15 U.S.C. 78g(f)(2)(A), (C)).

(c) The Secretary of the Treasury shall prescribe regulations consistent with subsection (a) of this section requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The regulations shall require that a report contain information and be submitted at the time and in the way, with reasonable exceptions and classifications, necessary to carry out this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 997.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5315(a) ..... | 31:1141. | Sept. 21, 1973, Pub. L. 93–110, §§ 201, 202, 87 Stat. 353. |
| 5315(b), (c). | 31:1142. | |

In subsection (a)(3), the words ''it is desirable to emphasize this objective . . . existing legal'' are omitted as unnecessary.

In subsection (c), the words ''(hereafter referred to as the 'Secretary')'' are omitted because of the restatement. The words ''under the authority of this subchapter and any other authority conferred by law'' are omitted as surplus. The word ''prescribe'' is substituted for ''supplement'' for clarity. The words ''the statement of findings under'' and ''the submission of'' are omitted as surplus. The words ''Reports required under this subchapter shall cover foreign currency transactions'' are omitted because of the restatement. The words ''such terms are'' and ''the policy of'' are omitted as surplus.

REFERENCES IN TEXT

Section 5(b) of the Trading With the Enemy Act, referred to in subsec. (a)(3), is also classified to section 95a of Title 12, Banks and Banking.

## § 5316. Reports on exporting and importing monetary instruments

(a) Except as provided in subsection (c) of this section, a person or an agent or bailee of the person shall file a report under subsection (b) of this section when the person, agent, or bailee knowingly—

(1) transports, is about to transport, or has transported, monetary instruments of more than $10,000 at one time—

(A) from a place in the United States to or through a place outside the United States; or

(B) to a place in the United States from or through a place outside the United States; or

(2) receives monetary instruments of more than $10,000 at one time transported into the United States from or through a place outside the United States.

(b) A report under this section shall be filed at the time and place the Secretary of the Treasury prescribes. The report shall contain the following information to the extent the Secretary prescribes:

(1) the legal capacity in which the person filing the report is acting.

(2) the origin, destination, and route of the monetary instruments.

(3) when the monetary instruments are not legally and beneficially owned by the person transporting the instruments, or if the person transporting the instruments personally is not going to use them, the identity of the person that gave the instruments to the person transporting them, the identity of the person who is to receive them, or both.

(4) the amount and kind of monetary instruments transported.

(5) additional information.

(c) This section or a regulation under this section does not apply to a common carrier of passengers when a passenger possesses a monetary instrument, or to a common carrier of goods if the shipper does not declare the instrument.

(d) CUMULATION OF CLOSELY RELATED EVENTS.—The Secretary of the Treasury may prescribe regulations under this section defining the term ''at one time'' for purposes of subsection (a). Such regulations may permit the cumulation of closely related events in order that such events may collectively be considered to occur at one time for the purposes of subsection (a).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 998; Pub. L. 98–473, title II, § 901(c), Oct. 12, 1984, 98 Stat. 2135; Pub. L. 99–570, title I, § 1358, title III, § 3153, Oct. 27, 1986, 100 Stat. 3207–26, 3207–94.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5316(a) ..... | 31:1101(a). | Oct. 26, 1970, Pub. L. 91–508, § 231, 84 Stat. 1122. |
| 5316(b) ..... | 31:1101(b). | |
| 5316(c) ..... | 31:1101(c). | |

In subsection (a), before clause (1), the words ''a person or an agent or bailee of the person shall'' are substituted for ''whoever, whether as principal, agent, or bailee, or by an agent or bailee'' for consistency. The words ''or reports'' are omitted as unnecessary because of 1:1. In clause (2), the words ''transported into the United States'' are substituted for ''at the termination of their transportation to the United States'' for consistency and to eliminate unnecessary words.

In subsection (b), before clause (1), the word ''required'' is omitted as surplus. The word ''prescribes'' is substituted for ''require'' for consistency in the revised title and with other titles of the United States Code. The words ''to the extent'' are substituted for ''in such detail'' for clarity. In clause (1), the words ''with respect to the monetary instruments transported'' are omitted as surplus. In clause (3), the words ''or if the person transporting the instruments personally is not

going to use them'' are substituted for ''or are transported for any purpose other than the use in his own behalf of the person transporting the same'' for clarity.

In subsection (c), the words ''or a regulation under this section'' are added because of the restatement.

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99–570, § 1358(b), substituted ''transports, is about to transport, or has transported'' for ''transports or has transported, or attempts to transport or have transported''.

Subsec. (a)(2). Pub. L. 99–570, §§ 1358(c), 3153, made identical amendments substituting ''$10,000'' for ''$5,000''.

Subsec. (d). Pub. L. 99–570, § 1358(a), added subsec. (d).

1984—Subsec. (a)(1). Pub. L. 98–473 inserted '', or attempts to transport or have transported,'' after ''transports or has transported'' and substituted ''$10,000'' for ''$5,000''.

EFFECTIVE DATE OF REGULATIONS PRESCRIBED UNDER 1986 AMENDMENT

Section 1364(d) of Pub. L. 99–570 provided that: ''Any regulation prescribed under the amendments made by section 1358 [amending this section] shall apply with respect to transactions completed after the effective date of such regulation.''

## § 5317. Search and forfeiture of monetary instruments

(a) The Secretary of the Treasury may apply to a court of competent jurisdiction for a search warrant when the Secretary reasonably believes a monetary instrument is being transported and a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. The Secretary shall include a statement of information in support of the warrant. On a showing of probable cause, the court may issue a search warrant for a designated person or a designated or described place or physical object. This subsection does not affect the authority of the Secretary under another law.

(b) SEARCHES AT BORDER.—For purposes of ensuring compliance with the requirements of section 5316, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container, and any person entering or departing from the United States.

(c) FORFEITURE.—

(1) CRIMINAL FORFEITURE.—

(A) IN GENERAL.—The court in imposing sentence for any violation of section 5313, 5316, or 5324 of this title, or any conspiracy to commit such violation, shall order the defendant to forfeit all property, real or personal, involved in the offense and any property traceable thereto.

(B) PROCEDURE.—Forfeitures under this paragraph shall be governed by the procedures established in section 413 of the Controlled Substances Act.

(2) CIVIL FORFEITURE.—Any property involved in a violation of section 5313, 5316, or 5324 of this title, or any conspiracy to commit any such violation, and any property traceable to any such violation or conspiracy, may be seized and forfeited to the United States in accordance with the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 998; Pub. L. 98–473, title II, § 901(d), Oct. 12, 1984, 98 Stat. 2135; Pub. L. 99–570, title I, § 1355, Oct. 27, 1986, 100 Stat. 3207–22; Pub. L. 102–550, title XV, § 1525(c)(2), Oct. 28, 1992, 106 Stat. 4065; Pub. L. 107–56, title III, §§ 365(b)(2)(B), 372(a), Oct. 26, 2001, 115 Stat. 335, 338.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5317(a) ..... | 31:1105. | Oct. 26, 1970, Pub. L. 91–508, §§ 232, 235, 84 Stat. 1123. |
| 5317(b) ..... | 31:1102. | |

In subsection (a), the words ''The Secretary shall include a statement of information in support of the warrant'' are substituted for 31:1105(a)(last sentence) to eliminate unnecessary words and for consistency. The word ''for'' is substituted for ''authorizing the search of . . . all of the following'' to eliminate unnecessary words. The words ''or more'' are omitted as unnecessary because the singular includes the plural under 1:1. The words ''or premises'', ''letters, parcels, packages, or other'', and ''vehicles'' are omitted as surplus.

In subsection (b), the words ''either'' and ''the possession of'' are omitted as surplus. The words ''United States Postal Service'' are substituted for ''postal service'' for consistency with title 39. The words ''or retained in'' are omitted as surplus.

REFERENCES IN TEXT

Section 413 of the Controlled Substances Act, referred to in subsec. (c)(1)(B), is classified to section 853 of Title 21, Food and Drugs.

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–56, § 372(a), inserted heading and amended text of subsec. (c) generally. Prior to amendment, text read as follows: ''If a report required under section 5316 with respect to any monetary instrument is not filed (or if filed, contains a material omission or misstatement of fact), the instrument and any interest in property, including a deposit in a financial institution, traceable to such instrument may be seized and forfeited to the United States Government. Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(c), or any property traceable to such property, may be seized and forfeited to the United States Government. A monetary instrument transported by mail or a common carrier, messenger, or bailee is being transported under this subsection from the time the instrument is delivered to the United States Postal Service, common carrier, messenger, or bailee through the time it is delivered to the addressee, intended recipient, or agent of the addressee or intended recipient without being transported further in, or taken out of, the United States.''

Pub. L. 107–56, § 365(b)(2)(B), substituted ''section 5324(c)'' for ''section 5324(b)''.

1992—Subsec. (c). Pub. L. 102–550 inserted after first sentence ''Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.''

1986—Subsec. (b). Pub. L. 99–570, § 1355(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''A customs officer may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported in violation of section 5316 of this title.''

Subsec. (c). Pub. L. 99–570, § 1355(b), amended first sentence generally. Prior to amendment, first sentence

read as follows: ''A monetary instrument being transported may be seized and forfeited to the United States Government when a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement.''

1984—Subsecs. (b), (c). Pub. L. 98–473, § 901, added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1364(b) of Pub. L. 99–570 provided that: ''The amendments made by sections 1355(b) and 1357(a) [amending this section and section 5321 of this title] shall apply with respect to violations committed after the end of the 3-month period beginning on the date of the enactment of this Act [Oct. 27, 1986].''

## § 5318. Compliance, exemptions, and summons authority

(a) GENERAL POWERS OF SECRETARY.—The Secretary of the Treasury may (except under section 5315 of this title and regulations prescribed under section 5315)—

(1) except as provided in subsection (b)(2), delegate duties and powers under this subchapter to an appropriate supervising agency and the United States Postal Service;

(2) require a class of domestic financial institutions or nonfinancial trades or businesses to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter or to guard against money laundering;

(3) examine any books, papers, records, or other data of domestic financial institutions or nonfinancial trades or businesses relevant to the recordkeeping or reporting requirements of this subchapter;

(4) summon a financial institution or nonfinancial trade or business, an officer or employee of a financial institution or nonfinancial trade or business (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b);

(5) exempt from the requirements of this subchapter any class of transactions within any State if the Secretary determines that—

(A) under the laws of such State, that class of transactions is subject to requirements substantially similar to those imposed under this subchapter; and

(B) there is adequate provision for the enforcement of such requirements; and

(6) prescribe an appropriate exemption from a requirement under this subchapter and regulations prescribed under this subchapter. The Secretary may revoke an exemption under this paragraph or paragraph (5) by actually or constructively notifying the parties affected. A revocation is effective during judicial review.

(b) LIMITATIONS ON SUMMONS POWER.—

(1) SCOPE OF POWER.—The Secretary of the Treasury may take any action described in paragraph (3) or (4) of subsection (a) only in connection with investigations for the purpose of civil enforcement of violations of this subchapter, section 21 of the Federal Deposit Insurance Act, section 411[1] of the National Housing Act, or chapter 2 of Public Law 91–508 (12 U.S.C. 1951 et seq.) or any regulation under any such provision.

(2) AUTHORITY TO ISSUE.—A summons may be issued under subsection (a)(4) only by, or with the approval of, the Secretary of the Treasury or a supervisory level delegate of the Secretary of the Treasury.

(c) ADMINISTRATIVE ASPECTS OF SUMMONS.—

(1) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this section may require that books, papers, records, or other data stored or maintained at any place be produced at any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the financial institution or nonfinancial trade or business operates or conducts business in the United States.

(2) FEES AND TRAVEL EXPENSES.—Persons summoned under this section shall be paid the same fees and mileage for travel in the United States that are paid witnesses in the courts of the United States.

(3) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense, other than an expense described in paragraph (2), incurred in connection with the production of books, papers, records, or other data under this section.

(d) SERVICE OF SUMMONS.—Service of a summons issued under this section may be by registered mail or in such other manner calculated to give actual notice as the Secretary may prescribe by regulation.

(e) CONTUMACY OR REFUSAL.—

(1) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under paragraph (3) or (4) of subsection (a) or a refusal by such person to obey such summons, the Secretary of the Treasury shall refer the matter to the Attorney General.

(2) JURISDICTION OF COURT.—The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which—

(A) the investigation which gave rise to the summons is being or has been carried on;

(B) the person summoned is an inhabitant; or

(C) the person summoned carries on business or may be found,

to compel compliance with the summons.

(3) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or his delegate to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, and to pay the costs of the proceeding.

(4) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

[1] See References in Text note below.

(5) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.

(f) WRITTEN AND SIGNED STATEMENT REQUIRED.—No person shall qualify for an exemption under subsection (a)(5)[2] unless the relevant financial institution or nonfinancial trade or business prepares and maintains a statement which—

(1) describes in detail the reasons why such person is qualified for such exemption; and

(2) contains the signature of such person.

(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

(1) IN GENERAL.—The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

(2) NOTIFICATION PROHIBITED.—

(A) IN GENERAL.—If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—

(i) the financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and

(ii) no officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

(B) DISCLOSURES IN CERTAIN EMPLOYMENT REFERENCES.—

(i) RULE OF CONSTRUCTION.—Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including information that was included in a report to which subparagraph (A) applies—

(I) in a written employment reference that is provided in accordance with section 18(w) of the Federal Deposit Insurance Act in response to a request from another financial institution; or

(II) in a written termination notice or employment reference that is provided in accordance with the rules of a self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission,

except that such written reference or notice may not disclose that such information was also included in any such report, or that such report was made.

(ii) INFORMATION NOT REQUIRED.—Clause (i) shall not be construed, by itself, to create any affirmative duty to include any information described in clause (i) in any employment reference or termination notice referred to in clause (i).

(3) LIABILITY FOR DISCLOSURES.—

(A) IN GENERAL.—Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating—

(i) any inference that the term ''person'', as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.

(4) SINGLE DESIGNEE FOR REPORTING SUSPICIOUS TRANSACTIONS.—

(A) IN GENERAL.—In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

(B) DUTY OF DESIGNEE.—The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to any appropriate law enforcement, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.

(C) COORDINATION WITH OTHER REPORTING REQUIREMENTS.—Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any other applicable provision of law.

(h) ANTI-MONEY LAUNDERING PROGRAMS.—

(1) IN GENERAL.—In order to guard against money laundering through financial institutions, each financial institution shall estab-

[2] See References in Text note below.

lish anti-money laundering programs, including, at a minimum—

(A) the development of internal policies, procedures, and controls;

(B) the designation of a compliance officer;

(C) an ongoing employee training program; and

(D) an independent audit function to test programs.

(2) REGULATIONS.—The Secretary of the Treasury, after consultation with the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act), may prescribe minimum standards for programs established under paragraph (1), and may exempt from the application of those standards any financial institution that is not subject to the provisions of the rules contained in part 103 of title 31, of the Code of Federal Regulations, or any successor rule thereto, for so long as such financial institution is not subject to the provisions of such rules.

(3) CONCENTRATION ACCOUNTS.—The Secretary may prescribe regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum—

(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;

(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution; and

(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.

(i) DUE DILIGENCE FOR UNITED STATES PRIVATE BANKING AND CORRESPONDENT BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—

(1) IN GENERAL.—Each financial institution that establishes, maintains, administers, or manages a private banking account or a correspondent account in the United States for a non-United States person, including a foreign individual visiting the United States, or a representative of a non-United States person shall establish appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures, and controls that are reasonably designed to detect and report instances of money laundering through those accounts.

(2) ADDITIONAL STANDARDS FOR CERTAIN CORRESPONDENT ACCOUNTS.—

(A) IN GENERAL.—Subparagraph (B) shall apply if a correspondent account is requested or maintained by, or on behalf of, a foreign bank operating—

(i) under an offshore banking license; or

(ii) under a banking license issued by a foreign country that has been designated—

(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; or

(II) by the Secretary of the Treasury as warranting special measures due to money laundering concerns.

(B) POLICIES, PROCEDURES, AND CONTROLS.—The enhanced due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution in the United States takes reasonable steps—

(i) to ascertain for any such foreign bank, the shares of which are not publicly traded, the identity of each of the owners of the foreign bank, and the nature and extent of the ownership interest of each such owner;

(ii) to conduct enhanced scrutiny of such account to guard against money laundering and report any suspicious transactions under subsection (g); and

(iii) to ascertain whether such foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate under paragraph (1).

(3) MINIMUM STANDARDS FOR PRIVATE BANKING ACCOUNTS.—If a private banking account is requested or maintained by, or on behalf of, a non-United States person, then the due diligence policies, procedures, and controls required under paragraph (1) shall, at a minimum, ensure that the financial institution takes reasonable steps—

(A) to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, such account as needed to guard against money laundering and report any suspicious transactions under subsection (g); and

(B) to conduct enhanced scrutiny of any such account that is requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, that is reasonably designed to detect and report transactions that may involve the proceeds of foreign corruption.

(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) OFFSHORE BANKING LICENSE.—The term ''offshore banking license'' means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the country which issued the license.

(B) PRIVATE BANKING ACCOUNT.—The term ''private banking account'' means an account (or any combination of accounts) that—

(i) requires a minimum aggregate deposits of funds or other assets of not less than $1,000,000;

(ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

(iii) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account.

(j) PROHIBITION ON UNITED STATES CORRESPONDENT ACCOUNTS WITH FOREIGN SHELL BANKS.—

(1) IN GENERAL.—A financial institution described in subparagraphs (A) through (G) of section 5312(a)(2) (in this subsection referred to as a ''covered financial institution'') shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign bank that does not have a physical presence in any country.

(2) PREVENTION OF INDIRECT SERVICE TO FOREIGN SHELL BANKS.—A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to another foreign bank that does not have a physical presence in any country. The Secretary of the Treasury shall, by regulation, delineate the reasonable steps necessary to comply with this paragraph.

(3) EXCEPTION.—Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank—

(A) is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank described in subparagraph (A), as applicable.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term ''affiliate'' means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

(B) the term ''physical presence'' means a place of business that—

(i) is maintained by a foreign bank;

(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank—

(I) employs 1 or more individuals on a full-time basis; and

(II) maintains operating records related to its banking activities; and

(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.

(k) BANK RECORDS RELATED TO ANTI-MONEY LAUNDERING PROGRAMS.—

(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term ''appropriate Federal banking agency'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(B) INCORPORATED TERM.—The term ''correspondent account'' has the same meaning as in section 5318A(e)(1)(B).

(2) 120-HOUR RULE.—Not later than 120 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

(3) FOREIGN BANK RECORDS.—

(A) SUMMONS OR SUBPOENA OF RECORDS.—

(i) IN GENERAL.—The Secretary of the Treasury or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank.

(ii) SERVICE OF SUMMONS OR SUBPOENA.—A summons or subpoena referred to in clause (i) may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

(B) ACCEPTANCE OF SERVICE.—

(i) MAINTAINING RECORDS IN THE UNITED STATES.—Any covered financial institution which maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

(ii) LAW ENFORCEMENT REQUEST.—Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the re-

questing officer not later than 7 days after receipt of the request.

(C) TERMINATION OF CORRESPONDENT RELATIONSHIP.—

(i) TERMINATION UPON RECEIPT OF NOTICE.—A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 business days after receipt of written notice from the Secretary or the Attorney General (in each case, after consultation with the other) that the foreign bank has failed—

(I) to comply with a summons or subpoena issued under subparagraph (A); or

(II) to initiate proceedings in a United States court contesting such summons or subpoena.

(ii) LIMITATION ON LIABILITY.—A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this subsection.

(iii) FAILURE TO TERMINATE RELATIONSHIP.—Failure to terminate a correspondent relationship in accordance with this subsection shall render the covered financial institution liable for a civil penalty of up to $10,000 per day until the correspondent relationship is so terminated.

(*l*) IDENTIFICATION AND VERIFICATION OF ACCOUNTHOLDERS.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary of the Treasury shall prescribe regulations setting forth the minimum standards for financial institutions and their customers regarding the identity of the customer that shall apply in connection with the opening of an account at a financial institution.

(2) MINIMUM REQUIREMENTS.—The regulations shall, at a minimum, require financial institutions to implement, and customers (after being given adequate notice) to comply with, reasonable procedures for—

(A) verifying the identity of any person seeking to open an account to the extent reasonable and practicable;

(B) maintaining records of the information used to verify a person's identity, including name, address, and other identifying information; and

(C) consulting lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency to determine whether a person seeking to open an account appears on any such list.

(3) FACTORS TO BE CONSIDERED.—In prescribing regulations under this subsection, the Secretary shall take into consideration the various types of accounts maintained by various types of financial institutions, the various methods of opening accounts, and the various types of identifying information available.

(4) CERTAIN FINANCIAL INSTITUTIONS.—In the case of any financial institution the business of which is engaging in financial activities described in section 4(k) of the Bank Holding Company Act of 1956 (including financial activities subject to the jurisdiction of the Commodity Futures Trading Commission), the regulations prescribed by the Secretary under paragraph (1) shall be prescribed jointly with each Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act, including the Commodity Futures Trading Commission) appropriate for such financial institution.

(5) EXEMPTIONS.—The Secretary (and, in the case of any financial institution described in paragraph (4), any Federal agency described in such paragraph) may, by regulation or order, exempt any financial institution or type of account from the requirements of any regulation prescribed under this subsection in accordance with such standards and procedures as the Secretary may prescribe.

(6) EFFECTIVE DATE.—Final regulations prescribed under this subsection shall take effect before the end of the 1-year period beginning on the date of enactment of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001.

(m) APPLICABILITY OF RULES.—Any rules promulgated pursuant to the authority contained in section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) shall apply, in addition to any other financial institution to which such rules apply, to any person that engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.

(n) REPORTING OF CERTAIN CROSS-BORDER TRANSMITTALS OF FUNDS.—

(1) IN GENERAL.—Subject to paragraphs (3) and (4), the Secretary shall prescribe regulations requiring such financial institutions as the Secretary determines to be appropriate to report to the Financial Crimes Enforcement Network certain cross-border electronic transmittals of funds, if the Secretary determines that reporting of such transmittals is reasonably necessary to conduct the efforts of the Secretary against money laundering and terrorist financing.

(2) LIMITATION ON REPORTING REQUIREMENTS.—Information required to be reported by the regulations prescribed under paragraph (1) shall not exceed the information required to be retained by the reporting financial institution pursuant to section 21 of the Federal Deposit Insurance Act and the regulations promulgated thereunder, unless—

(A) the Board of Governors of the Federal Reserve System and the Secretary jointly determine that a particular item or items of information are not currently required to be retained under such section or such regulations; and

(B) the Secretary determines, after consultation with the Board of Governors of the Federal Reserve System, that the reporting of such information is reasonably necessary to conduct the efforts of the Secretary to

identify cross-border money laundering and terrorist financing.

(3) FORM AND MANNER OF REPORTS.—In prescribing the regulations required under paragraph (1), the Secretary shall, subject to paragraph (2), determine the appropriate form, manner, content, and frequency of filing of the required reports.

(4) FEASIBILITY REPORT.—

(A) IN GENERAL.—Before prescribing the regulations required under paragraph (1), and as soon as is practicable after the date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that—

(i) identifies the information in cross-border electronic transmittals of funds that may be found in particular cases to be reasonably necessary to conduct the efforts of the Secretary to identify money laundering and terrorist financing, and outlines the criteria to be used by the Secretary to select the situations in which reporting under this subsection may be required;

(ii) outlines the appropriate form, manner, content, and frequency of filing of the reports that may be required under such regulations;

(iii) identifies the technology necessary for the Financial Crimes Enforcement Network to receive, keep, exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing; and

(iv) discusses the information security protections required by the exercise of the Secretary's authority under this subsection.

(B) CONSULTATION.—In reporting the feasibility report under subparagraph (A), the Secretary may consult with the Bank Secrecy Act Advisory Group established by the Secretary, and any other group considered by the Secretary to be relevant.

(5) REGULATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), the regulations required by paragraph (1) shall be prescribed in final form by the Secretary, in consultation with the Board of Governors of the Federal Reserve System, before the end of the 3-year period beginning on the date of enactment of the National Intelligence Reform Act of 2004.

(B) TECHNOLOGICAL FEASIBILITY.—No regulations shall be prescribed under this subsection before the Secretary certifies to the Congress that the Financial Crimes Enforcement Network has the technological systems in place to effectively and efficiently receive, keep, exploit, protect the security of, and disseminate information from reports of cross-border electronic transmittals of funds to law enforcement and other entities engaged in efforts against money laundering and terrorist financing.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 999; Pub. L. 99–570, title I, § 1356(a), (b), (c)(2), Oct. 27, 1986, 100 Stat. 3207–23, 3207–24; Pub. L. 100–690, title VI, §§ 6185(e), 6469(c), Nov. 18, 1988, 102 Stat. 4357, 4377; Pub. L. 102–550, title XV, §§ 1504(d)(1), 1513, 1517(b), Oct. 28, 1992, 106 Stat. 4055, 4058, 4059; Pub. L. 103–322, title XXXIII, § 330017(b)(1), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103–325, title IV, §§ 403(a), 410, 413(b)(1), Sept. 23, 1994, 108 Stat. 2245, 2252, 2254; Pub. L. 107–56, title III, §§ 312(a), 313(a), 319(b), 325, 326(a), 351, 352(a), 358(b), 359(c), 365(c)(2)(B), Oct. 26, 2001, 115 Stat. 304, 306, 312, 317, 320, 322, 326, 328, 335; Pub. L. 108–159, title VIII, § 811(g), Dec. 4, 2003, 117 Stat. 2012; Pub. L. 108–458, title VI, §§ 6202(h), 6203(c), (d), 6302, Dec. 17, 2004, 118 Stat. 3746–3748; Pub. L. 109–177, title IV, § 407, Mar. 9, 2006, 120 Stat. 245.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5318 ..... | 31:1054(a), (b)(1st sentence).<br>31:1055. | Oct. 26, 1970, Pub. L. 91–508, §§ 205(a), (b)(1st sentence), 206, 84 Stat. 1120. |

In the section, before clause (1), the words ''have the responsibility to assure compliance with the requirements of this chapter'' in 31:1054(a) are omitted as unnecessary because of section 321 of the revised title. The words ''(except under section 5315 of this title and regulations prescribed under section 5315)'' are added because 31:1141–1143 was not enacted as a part of the Currency and Foreign Transactions Reporting Act that is restated in this subchapter. In clause (1), the words ''duties and powers'' are substituted for ''responsibilities'' for consistency in the revised title and with other titles of the United States Code. The words ''bank supervisory agency, or other'' are omitted as surplus. In clause (2), the words ''by regulation'' and ''as he may deem'' are omitted as surplus. The words ''and regulations prescribed under this subchapter'' are added because of the restatement. In clause (3), the word ''prescribe'' is substituted for ''make'' in 31:1055 for consistency in the revised title and with other titles of the Code. The words ''otherwise imposed'', 31:1055(1st sentence), and the words ''in his discretion'' are omitted as surplus.

REFERENCES IN TEXT

Section 21 of the Federal Deposit Insurance Act, referred to in subsecs. (b)(1), (m), and (n)(2), is classified to section 1829b of Title 12, Banks and Banking.

Section 411 of the National Housing Act, referred to in subsec. (b)(1), which was classified to section 1730d of Title 12, was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

Chapter 2 of Public Law 91–508 (12 U.S.C. 1951 et seq.), referred to in subsec. (b)(1), probably means chapter 2 (§§ 121 to 129) of title I of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1116, which is classified generally to chapter 21 (§ 1951 et seq.) of Title 12. For complete classification of chapter 2 to the Code, see Tables.

Subsection (a)(5), referred to in subsec. (f), was redesignated subsection (a)(6) by section 410(a)(2) of Pub. L. 103–325.

Section 18(w) of the Federal Deposit Insurance Act, referred to in subsec. (g)(2)(B)(i)(I), is classified to section 1828(w) of Title 12, Banks and Banking.

Section 509 of the Gramm-Leach-Bliley Act, referred to in subsecs. (h)(2) and (*l*)(4), is classified to section 6809 of Title 15, Commerce and Trade.

Section 4(k) of the Bank Holding Company Act of 1956, referred to in subsec. (*l*)(4), is classified to section 1843(k) of Title 12, Banks and Banking.

The date of enactment of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, referred to in subsec. (*l*)(6), is the date of enactment of title III of Pub. L. 107–56, which was approved Oct. 26, 2001.

The date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004, referred to in subsec. (n)(4)(A), is the date of enactment of Pub. L. 108–458, which was approved Dec. 17, 2004.

The date of enactment of the National Intelligence Reform Act of 2004, referred to in subsec. (n)(5)(A), probably means the date of enactment of the National Security Intelligence Reform Act of 2004, title I of Pub. L. 108–458, which was approved Dec. 17, 2004.

For provisions relating to the Bank Secrecy Act Advisory Group, referred to in subsec. (n)(4)(B), see section 1564 of Pub. L. 102–550, which is set out as a note under section 5311 of this title.

AMENDMENTS

2006—Subsec. (n)(4)(A). Pub. L. 109–177 substituted ''Intelligence Reform and Terrorism Prevention Act of 2004'' for ''National Intelligence Reform Act of 2004'' in introductory provisions.

2004—Subsec. (h)(3). Pub. L. 108–458, § 6202(h), made technical correction to directory language of Pub. L. 107–56, § 325. See 2001 Amendment note below.

Subsec. (i)(3)(B). Pub. L. 108–458, § 6203(c)(1), inserted comma before ''that is reasonably designed''.

Subsec. (i)(4). Pub. L. 108–458, § 6203(c)(2), substituted ''Definitions'' for ''Definition'' in heading.

Subsec. (k)(1)(B). Pub. L. 108–458, § 6203(d), substituted ''section 5318A(e)(1)(B)'' for ''section 5318A(f)(1)(B)''.

Subsec. (n). Pub. L. 108–458, § 6302, added subsec. (n).

2003—Subsecs. (*l*), (m). Pub. L. 108–159 redesignated subsec. (*l*), relating to applicability of rules, as (m).

2001—Subsec. (a)(2), (3). Pub. L. 107–56, § 365(c)(2)(B)(ii), inserted ''or nonfinancial trades or businesses'' after ''financial institutions''.

Subsec. (a)(4). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' in two places.

Subsec. (c)(1). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution''.

Subsec. (f). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' in introductory provisions.

Subsec. (g)(2). Pub. L. 107–56, § 351(b), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.''

Subsec. (g)(3). Pub. L. 107–56, § 351(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.''

Subsec. (g)(4)(B). Pub. L. 107–56, § 358(b), substituted '', supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism'' for ''or supervisory agency''.

Subsec. (h). Pub. L. 107–56, § 352(a), reenacted heading without change and amended text of subsec. (h) generally. Prior to amendment, text read as follows:

''(1) IN GENERAL.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum

''(A) the development of internal policies, procedures, and controls,

''(B) the designation of a compliance officer,

''(C) an ongoing employee training program, and

''(D) an independent audit function to test programs.

''(2) REGULATIONS.—The Secretary may prescribe minimum standards for programs established under paragraph (1).''

Subsec. (h)(3). Pub. L. 107–56, § 325, as amended by Pub. L. 108–458, § 6202(h), added par. (3).

Subsec. (i). Pub. L. 107–56, § 312(a), added subsec. (i).

Subsec. (j). Pub. L. 107–56, § 313(a), added subsec. (j).

Subsec. (k). Pub. L. 107–56, § 319(b), added subsec. (k).

Subsec. (*l*). Pub. L. 107–56, § 359(c), added subsec. (*l*) relating to applicability of rules.

Pub. L. 107–56, § 326(a), added subsec. (*l*) relating to identification and verification of accountholders.

1994—Subsec. (a)(5). Pub. L. 103–325, § 410(a), added par. (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 103–325, § 410(b), inserted ''under this paragraph or paragraph (5)'' after ''revoke an exemption'' in penultimate sentence.

Pub. L. 103–325, § 410(a)(2), redesignated par. (5) as (6).

Subsec. (g). Pub. L. 103–322, § 330017(b)(1), and Pub. L. 103–325, § 413(b)(1), amended directory language of Pub. L. 102–550, § 1517(b), identically. See 1992 Amendment note below.

Subsec. (g)(4). Pub. L. 103–325, § 403(a), added par. (4).

Subsec. (h). Pub. L. 103–322, § 330017(b)(1), and Pub. L. 103–325, § 413(b)(1), amended directory language of Pub. L. 102–550, § 1517(b), identically. See 1992 Amendment note below.

1992—Subsec. (a)(1). Pub. L. 102–550, § 1504(d)(1), substituted ''supervising agency and the United States Postal Service'' for ''supervising agency or the Postal Inspection Service and the Postal Service''.

Subsec. (a)(2). Pub. L. 102–550, § 1513, inserted before semicolon ''or to guard against money laundering''.

Subsecs. (g), (h). Pub. L. 102–550, § 1517(b), as amended by Pub. L. 103–322, § 330017(b)(1), and Pub. L. 103–325, § 413(b)(1), added subsecs. (g) and (h).

1988—Subsec. (a)(1). Pub. L. 100–690, § 6469(c), inserted ''or the Postal Inspection Service'' after ''appropriate supervising agency''.

Pub. L. 100–690, § 6185(e), inserted ''and the Postal Service'' after ''appropriate supervising agency''.

1986—Pub. L. 99–570, § 1356(c)(2), substituted ''Compliance, exemptions, and summons authority'' for ''Compliance and exemptions'' in section catchline.

Subsec. (a). Pub. L. 99–570, § 1356(a)(1)–(5), designated existing provisions as subsec. (a), added subsec. heading, inserted ''except as provided in subsection (b)(2),'' in par. (1), added pars. (3) and (4), and redesignated former par. (3) as (5).

Subsecs. (b) to (e). Pub. L. 99–570, § 1356(a)(6), added subsecs. (b) to (e).

Subsec. (f). Pub. L. 99–570, § 1356(b), added subsec. (f).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by sections 6202(h) and 6203(c), (d) of Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–56, title III, § 312(b)(2), Oct. 26, 2001, 115 Stat. 306, provided that: ''Section 5318(i) of title 31,

United States Code, as added by this section, shall take effect 270 days after the date of enactment of this Act [Oct. 26, 2001], whether or not final regulations are issued under paragraph (1) [set out below], and the failure to issue such regulations shall in no way affect the enforceability of this section [amending this section and enacting provisions set out as a note below] or the amendments made by this section. Section 5318(i) of title 31, United States Code, as added by this section, shall apply with respect to accounts covered by that section 5318(i), that are opened before, on, or after the date of enactment of this Act.''

Pub. L. 107–56, title III, § 313(b), Oct. 26, 2001, 115 Stat. 307, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect at the end of the 60-day period beginning on the date of enactment of this Act [Oct. 26, 2001].''

Pub. L. 107–56, title III, § 352(b), Oct. 26, 2001, 115 Stat. 322, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect at the end of the 180-day period beginning on the date of enactment of this Act [Oct. 26, 2001].''

Amendment by section 358(b) of Pub. L. 107–56 applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107–56, set out as a note under section 1829b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330017(b)(1) of Pub. L. 103–322 and section 413(b)(1) of Pub. L. 103–325 provided that the identical amendments made by those sections are effective Oct. 28, 1992.

REGULATIONS

Pub. L. 107–56, title III, § 312(b)(1), Oct. 26, 2001, 115 Stat. 305, provided that: ''Not later than 180 days after the date of enactment of this Act [Oct. 26, 2001], the Secretary [of the Treasury], in consultation with the appropriate Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act [15 U.S.C. 6809]) of the affected financial institutions, shall further delineate, by regulation, the due diligence policies, procedures, and controls required under section 5318(i)(1) of title 31, United States Code, as added by this section.''

Pub. L. 107–56, title III, § 352(c), Oct. 26, 2001, 115 Stat. 322, provided that: ''Before the end of the 180-day period beginning on the date of enactment of this Act [Oct. 26, 2001], the Secretary [of the Treasury] shall prescribe regulations that consider the extent to which the requirements imposed under this section [amending this section and enacting provisions set out as a note above] are commensurate with the size, location, and activities of the financial institutions to which such regulations apply.''

GRACE PERIOD

Pub. L. 107–56, title III, § 319(c), Oct. 26, 2001, 115 Stat. 314, provided that: ''Financial institutions shall have 60 days from the date of enactment of this Act [Oct. 26, 2001] to comply with the provisions of section 5318(k) of title 31, United States Code, as added by this section.''

''FEDERAL FUNCTIONAL REGULATOR'' INCLUDES COMMODITY FUTURES TRADING COMMISSION

Pub. L. 107–56, title III, § 321(c), Oct. 26, 2001, 115 Stat. 315, provided that: ''For purposes of this Act [probably should be ''title'', see Short Title of 2001 Amendment note set out under section 5301 of this title] and any amendment made by this Act to any other provision of law, the term 'Federal functional regulator' includes the Commodity Futures Trading Commission.''

REPORTING OF SUSPICIOUS ACTIVITIES BY SECURITIES BROKERS AND DEALERS; INVESTMENT COMPANY STUDY

Pub. L. 107–56, title III, § 356(a), (b), Oct. 26, 2001, 115 Stat. 324, provided that:

''(a) DEADLINE FOR SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS FOR REGISTERED BROKERS AND DEALERS.—The Secretary [of the Treasury], after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall publish proposed regulations in the Federal Register before January 1, 2002, requiring brokers and dealers registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] to submit suspicious activity reports under section 5318(g) of title 31, United States Code. Such regulations shall be published in final form not later than July 1, 2002.

''(b) SUSPICIOUS ACTIVITY REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS, COMMODITY TRADING ADVISORS, AND COMMODITY POOL OPERATORS.—The Secretary, in consultation with the Commodity Futures Trading Commission, may prescribe regulations requiring futures commission merchants, commodity trading advisors, and commodity pool operators registered under the Commodity Exchange Act [7 U.S.C. 1 et seq.] to submit suspicious activity reports under section 5318(g) of title 31, United States Code.''

REPORTS

Section 403(b) of Pub. L. 103–325 provided that:

''(1) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under paragraph (2) on the number of suspicious transactions reported to the officer or agency designated under section 5318(g)(4)(A) of title 31, United States Code, during the period covered by the report and the disposition of such reports.

''(2) TIME FOR SUBMITTING REPORTS.—The 1st report required under paragraph (1) shall be filed before the end of the 1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994 [Sept. 23, 1994] and each subsequent report shall be filed within 90 days after the end of each of the 5 calendar years which begin after such date of enactment.''

DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY

Section 403(c) of Pub. L. 103–325 provided that: ''The initial designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) [amending this section] shall be made before the end of the 180-day period beginning on the date of enactment of this Act [Sept. 23, 1994].''

IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES

Section 404 of Pub. L. 103–325 provided that:

''(a) ENHANCED TRAINING, EXAMINATIONS, AND REFERRALS BY BANKING AGENCIES.—Before the end of the 6-month period beginning on the date of enactment of this Act [Sept. 23, 1994], each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies—

''(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

''(2) review and enhance procedures for referring cases to any appropriate law enforcement agency.

''(b) IMPROVED REPORTING OF CRIMINAL SCHEMES BY LAW ENFORCEMENT AGENCIES.—The Secretary of the Treasury and each appropriate law enforcement agency shall provide, on a regular basis, information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency in order to enhance each agency's ability to examine for and identify money laundering activity.

''(c) REPORT TO CONGRESS.—The Financial Institutions Examination Council shall submit a report on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b) to the Congress by the end of the 1-year period beginning on the date of enactment of this Act.

''(d) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' has the

same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].''

### § 5318A. Special measures for jurisdictions, financial institutions, international transactions, or types of accounts of primary money laundering concern

(a) INTERNATIONAL COUNTER-MONEY LAUNDERING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury may require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures described in subsection (b) if the Secretary finds that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern, in accordance with subsection (c).

(2) FORM OF REQUIREMENT.—The special measures described in—

(A) subsection (b) may be imposed in such sequence or combination as the Secretary shall determine;

(B) paragraphs (1) through (4) of subsection (b) may be imposed by regulation, order, or otherwise as permitted by law; and

(C) subsection (b)(5) may be imposed only by regulation.

(3) DURATION OF ORDERS; RULEMAKING.—Any order by which a special measure described in paragraphs (1) through (4) of subsection (b) is imposed (other than an order described in section 5326)—

(A) shall be issued together with a notice of proposed rulemaking relating to the imposition of such special measure; and

(B) may not remain in effect for more than 120 days, except pursuant to a rule promulgated on or before the end of the 120-day period beginning on the date of issuance of such order.

(4) PROCESS FOR SELECTING SPECIAL MEASURES.—In selecting which special measure or measures to take under this subsection, the Secretary of the Treasury—

(A) shall consult with the Chairman of the Board of Governors of the Federal Reserve System, any other appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act)[1] the Secretary of State, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the National Credit Union Administration Board, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and

(B) shall consider—

(i) whether similar action has been or is being taken by other nations or multilateral groups;

(ii) whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;

(iii) the extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, class of transactions, or type of account; and

(iv) the effect of the action on United States national security and foreign policy.

(5) NO LIMITATION ON OTHER AUTHORITY.—This section shall not be construed as superseding or otherwise restricting any other authority granted to the Secretary, or to any other agency, by this subchapter or otherwise.

(b) SPECIAL MEASURES.—The special measures referred to in subsection (a), with respect to a jurisdiction outside of the United States, financial institution operating outside of the United States, class of transaction within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts are as follows:

(1) RECORDKEEPING AND REPORTING OF CERTAIN FINANCIAL TRANSACTIONS.—

(A) IN GENERAL.—The Secretary of the Treasury may require any domestic financial institution or domestic financial agency to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, class of transactions, or type of account to be of primary money laundering concern.

(B) FORM OF RECORDS AND REPORTS.—Such records and reports shall be made and retained at such time, in such manner, and for such period of time, as the Secretary shall determine, and shall include such information as the Secretary may determine, including—

(i) the identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;

(ii) the legal capacity in which a participant in any transaction is acting;

(iii) the identity of the beneficial owner of the funds involved in any transaction, in accordance with such procedures as the Secretary determines to be reasonable and practicable to obtain and retain the information; and

(iv) a description of any transaction.

(2) INFORMATION RELATING TO BENEFICIAL OWNERSHIP.—In addition to any other requirement under any other provision of law, the Secretary may require any domestic financial institution or domestic financial agency to

[1] So in original. Probably should be followed by a comma.

take such steps as the Secretary may determine to be reasonable and practicable to obtain and retain information concerning the beneficial ownership of any account opened or maintained in the United States by a foreign person (other than a foreign entity whose shares are subject to public reporting requirements or are listed and traded on a regulated exchange or trading market), or a representative of such a foreign person, that involves a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts if the Secretary finds any such jurisdiction, institution, or transaction or type of account to be of primary money laundering concern.

(3) INFORMATION RELATING TO CERTAIN PAYABLE-THROUGH ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a payable-through account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a payable through account through which any such transaction may be conducted, as a condition of opening or maintaining such account—

(A) to identify each customer (and representative of such customer) of such financial institution who is permitted to use, or whose transactions are routed through, such payable-through account; and

(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

(4) INFORMATION RELATING TO CERTAIN CORRESPONDENT ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a correspondent account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a correspondent account through which any such transaction may be conducted, as a condition of opening or maintaining such account—

(A) to identify each customer (and representative of such customer) of any such financial institution who is permitted to use, or whose transactions are routed through, such correspondent account; and

(B) to obtain, with respect to each such customer (and each such representative), information that is substantially comparable to that which the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon, the opening or maintaining in the United States of a correspondent account or payable-through account by any domestic financial institution or domestic financial agency for or on behalf of a foreign banking institution, if such correspondent account or payable-through account involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account or payable-through account.

(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN.—

(1) IN GENERAL.—In making a finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, or 1 or more types of accounts is of primary money laundering concern so as to authorize the Secretary of the Treasury to take 1 or more of the special measures described in subsection (b), the Secretary shall consult with the Secretary of State and the Attorney General.

(2) ADDITIONAL CONSIDERATIONS.—In making a finding described in paragraph (1), the Secretary shall consider in addition such information as the Secretary determines to be relevant, including the following potentially relevant factors:

(A) JURISDICTIONAL FACTORS.—In the case of a particular jurisdiction—

(i) evidence that organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles have transacted business in that jurisdiction;

(ii) the extent to which that jurisdiction or financial institutions operating in that jurisdiction offer bank secrecy or special regulatory advantages to nonresidents or nondomiciliaries of that jurisdiction;

(iii) the substance and quality of administration of the bank supervisory and counter-money laundering laws of that jurisdiction;

(iv) the relationship between the volume of financial transactions occurring in that jurisdiction and the size of the economy of the jurisdiction;

(v) the extent to which that jurisdiction is characterized as an offshore banking or secrecy haven by credible international organizations or multilateral expert groups;

(vi) whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of United States law enforcement officials and regulatory officials in obtaining information about transactions originating in or routed through or to such jurisdiction; and

(vii) the extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

(B) INSTITUTIONAL FACTORS.—In the case of a decision to apply 1 or more of the special measures described in subsection (b) only to a financial institution or institutions, or to a transaction or class of transactions, or to a type of account, or to all 3, within or involving a particular jurisdiction—

(i) the extent to which such financial institutions, transactions, or types of accounts are used to facilitate or promote money laundering in or through the jurisdiction, including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles;

(ii) the extent to which such institutions, transactions, or types of accounts are used for legitimate business purposes in the jurisdiction; and

(iii) the extent to which such action is sufficient to ensure, with respect to transactions involving the jurisdiction and institutions operating in the jurisdiction, that the purposes of this subchapter continue to be fulfilled, and to guard against international money laundering and other financial crimes.

(d) NOTIFICATION OF SPECIAL MEASURES INVOKED BY THE SECRETARY.—Not later than 10 days after the date of any action taken by the Secretary of the Treasury under subsection (a)(1), the Secretary shall notify, in writing, the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of any such action.

(e) DEFINITIONS.—Notwithstanding any other provision of this subchapter, for purposes of this section and subsections (i) and (j) of section 5318, the following definitions shall apply:

(1) BANK DEFINITIONS.—The following definitions shall apply with respect to a bank:

(A) ACCOUNT.—The term ''account''—

(i) means a formal banking or business relationship established to provide regular services, dealings, and other financial transactions; and

(ii) includes a demand deposit, savings deposit, or other transaction or asset account and a credit account or other extension of credit.

(B) CORRESPONDENT ACCOUNT.—The term ''correspondent account'' means an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution.

(C) PAYABLE-THROUGH ACCOUNT.—The term ''payable-through account'' means an account, including a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act), opened at a depository institution by a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

(2) DEFINITIONS APPLICABLE TO INSTITUTIONS OTHER THAN BANKS.—With respect to any financial institution other than a bank, the Secretary shall, after consultation with the appropriate Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act), define by regulation the term ''account'', and shall include within the meaning of that term, to the extent, if any, that the Secretary deems appropriate, arrangements similar to payable-through and correspondent accounts.

(3) REGULATORY DEFINITION OF BENEFICIAL OWNERSHIP.—The Secretary shall promulgate regulations defining beneficial ownership of an account for purposes of this section and subsections (i) and (j) of section 5318. Such regulations shall address issues related to an individual's authority to fund, direct, or manage the account (including, without limitation, the power to direct payments into or out of the account), and an individual's material interest in the income or corpus of the account, and shall ensure that the identification of individuals under this section or subsection (i) or (j) of section 5318 does not extend to any individual whose beneficial interest in the income or corpus of the account is immaterial.

(4) OTHER TERMS.—The Secretary may, by regulation, further define the terms in paragraphs (1), (2), and (3), and define other terms for the purposes of this section, as the Secretary deems appropriate.

(f) CLASSIFIED INFORMATION.—In any judicial review of a finding of the existence of a primary money laundering concern, or of the requirement for 1 or more special measures with respect to a primary money laundering concern, made under this section, if the designation or imposition, or both, were based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.),[2] such information may be submitted by the Secretary to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review of any finding made or any requirement imposed under this section.

(Added Pub. L. 107–56, title III, § 311(a), Oct. 26, 2001, 115 Stat. 298; amended Pub. L. 108–177, title III, § 376, Dec. 13, 2003, 117 Stat. 2630; Pub. L.

[2] So in original. A second closing parenthesis probably should precede the comma.

108–458, title VI, § 6203(e), (f), Dec. 17, 2004, 118 Stat. 3747; Pub. L. 109–293, title V, § 501, Sept. 30, 2006, 120 Stat. 1350.)

REFERENCES IN TEXT

Section 3 of the Federal Deposit Insurance Act, referred to in subsec. (a)(4)(A), is classified to section 1813 of Title 12, Banks and Banking.

Section 19(b)(1)(C) of the Federal Reserve Act, referred to in subsec. (e)(1)(C), is classified to section 461(b)(1)(C) of Title 12, Banks and Banking.

Section 509 of the Gramm-Leach-Bliley Act, referred to in subsec. (e)(2), is classified to section 6809 of Title 15, Commerce and Trade.

Section 1(a) of the Classified Information Procedures Act, referred to in subsec. (f), is section 1(a) of Pub. L. 96–456, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2006—Subsec. (c)(2)(A)(i). Pub. L. 109–293, § 501(1), substituted ''or entities involved in the proliferation of weapons of mass destruction or missiles'' for ''or both,''.

Subsec. (c)(2)(B)(i). Pub. L. 109–293, § 501(2), inserted '', including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles'' before semicolon at end.

2004—Pub. L. 108–458, § 6203(e), amended section catchline generally. Prior to amendment, catchline read as follows: ''Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern''.

Subsec. (a)(4)(A). Pub. L. 108–458, § 6203(f)(1), substituted ''(as defined in section 3 of the Federal Deposit Insurance Act)'' for '', as defined in section 3 of the Federal Deposit Insurance Act,''.

Subsec. (a)(4)(B)(iii). Pub. L. 108–458, § 6203(f)(2), substituted ''class of transactions, or type of account'' for ''or class of transactions''.

Subsec. (b)(1)(A). Pub. L. 108–458, § 6203(f)(3), substituted ''class of transactions, or type of account to be'' for ''or class of transactions to be''.

Subsec. (e)(3). Pub. L. 108–458, § 6203(f)(4), inserted ''or subsection (i) or (j) of section 5318'' after ''identification of individuals under this section''.

2003—Subsec. (f). Pub. L. 108–177 added subsec. (f).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

''FEDERAL FUNCTIONAL REGULATOR'' INCLUDES COMMODITY FUTURES TRADING COMMISSION

For purposes of Pub. L. 107–56 and any amendment by Pub. L. 107–56, the term ''Federal functional regulator'' includes the Commodity Futures Trading Commission, see section 321(c) of Pub. L. 107–56, set out as a note under section 5318 of this title.

## § 5319. Availability of reports

The Secretary of the Treasury shall make information in a report filed under this subchapter available to an agency, including any State financial institutions supervisory agency, United States intelligence agency or self-regulatory organization registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission, upon request of the head of the agency or organization. The report shall be available for a purpose that is consistent with this subchapter. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes or by United States intelligence agencies. However, a report and records of reports are exempt from disclosure under section 552 of title 5.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 999; Pub. L. 102–550, title XV, § 1506, Oct. 28, 1992, 106 Stat. 4055; Pub. L. 107–56, title III, § 358(c), Oct. 26, 2001, 115 Stat. 326.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5319 ..... | 31:1052(j).<br>31:1061. | Oct. 26, 1970, Pub. L. 91–508, §§ 203(j), 212, 84 Stat. 1120, 1121. |

The words ''upon such conditions and pursuant to such procedures as he may by regulation prescribe'' and ''set forth'' in 31:1061, and the word ''specifically'' in 31:1052(j), are omitted as surplus.

AMENDMENTS

2001—Pub. L. 107–56 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''The Secretary of the Treasury shall make information in a report filed under section 5313, 5314, or 5316 of this title available to an agency, including any State financial institutions supervisory agency, on request of the head of the agency. The report shall be available for a purpose consistent with those sections or a regulation prescribed under those sections. The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes. However, a report and records of reports are exempt from disclosure under section 552 of title 5.''

1992—Pub. L. 102–550 substituted ''to an agency, including any State financial institutions supervisory agency,'' for ''to an agency'' in first sentence and inserted after second sentence ''The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.''

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–56 applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107–56, set out as a note under section 1829b of Title 12, Banks and Banking.

## § 5320. Injunctions

When the Secretary of the Treasury believes a person has violated, is violating, or will violate this subchapter or a regulation prescribed or order issued under this subchapter, the Secretary may bring a civil action in the appropriate district court of the United States or appropriate United States court of a territory or possession of the United States to enjoin the violation or to enforce compliance with the subchapter, regulation, or order. An injunction or temporary restraining order shall be issued without bond.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 999.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5320 ..... | 31:1057. | Oct. 26, 1970, Pub. L. 91–508, § 208, 84 Stat. 1120. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 31:1143(b)(words before last comma). | Sept. 21, 1973, Pub. L. 93–110, § 203(b)(words before last comma), 87 Stat. 353. |

The words ''has violated, is violating, or will violate this subchapter'' are substituted for ''has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of the provisions of this chapter'' in 31:1057 and ''failed to submit a report required under any rule or regulation issued under this subchapter or has violated any rule or regulation issued hereunder'' in 31:1143(b)(words before last comma) to eliminate unnecessary words. The words ''or a regulation prescribed'' are added because of the restatement. The words ''in his discretion'' are omitted as surplus. The word ''civil'' is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The word ''possession'' is substituted for ''other place subject to the jurisdiction'' for consistency in the revised title and with other titles of the United States Code. The words ''or to enforce compliance with the subchapter, regulation, or order'' are substituted for 31:1057(last sentence) and the words ''a mandatory injunction commanding such person to comply with such rule or regulation'' in 31:1143(b)(words before last comma) to eliminate unnecessary words. The words ''and upon a proper showing . . . permanent or'' are omitted as surplus.

## § 5321. Civil penalties

(a)(1) A domestic financial institution or nonfinancial trade or business, and a partner, director, officer, or employee of a domestic financial institution or nonfinancial trade or business, willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except sections 5314 and 5315 of this title or a regulation prescribed under sections 5314 and 5315), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed $100,000) involved in the transaction (if any) or $25,000. For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than $10,000.

(4) STRUCTURED TRANSACTION VIOLATION.—

(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates any provision of section 5324.

(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed the amount of the coins and currency (or such other monetary instruments as the Secretary may prescribe) involved in the transaction with respect to which such penalty is imposed.

(C) COORDINATION WITH FORFEITURE PROVISION.—The amount of any civil money penalty imposed by the Secretary under subparagraph (A) shall be reduced by the amount of any forfeiture to the United States in connection with the transaction with respect to which such penalty is imposed.

(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

(B) AMOUNT OF PENALTY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

(I) such violation was due to reasonable cause, and

(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

(I) $100,000, or

(II) 50 percent of the amount determined under subparagraph (D), and

(ii) subparagraph (B)(ii) shall not apply.

(D) AMOUNT.—The amount determined under this subparagraph is—

(i) in the case of a violation involving a transaction, the amount of the transaction, or

(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.

(6) NEGLIGENCE.—

(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution or nonfinancial trade or business which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution or nonfinancial trade or business engages in a pattern of negligent violations of any provision of this subchapter or

any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution or nonfinancial trade or business.

(7) PENALTIES FOR INTERNATIONAL COUNTER MONEY LAUNDERING VIOLATIONS.—The Secretary may impose a civil money penalty in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000, on any financial institution or agency that violates any provision of subsection (i) or (j) of section 5318 or any special measures imposed under section 5318A.

(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT OF CIVIL ACTIONS.—

(1) ASSESSMENTS.—The Secretary of the Treasury may assess a civil penalty under subsection (a) at any time before the end of the 6-year period beginning on the date of the transaction with respect to which the penalty is assessed.

(2) CIVIL ACTIONS.—The Secretary may commence a civil action to recover a civil penalty assessed under subsection (a) at any time before the end of the 2-year period beginning on the later of—

(A) the date the penalty was assessed; or

(B) the date any judgment becomes final in any criminal action under section 5322 in connection with the same transaction with respect to which the penalty is assessed.

(c) The Secretary may remit any part of a forfeiture under subsection (c) or (d)[1] of section 5317 of this title or civil penalty under subsection (a)(2) of this section.

(d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.—A civil money penalty may be imposed under subsection (a) with respect to any violation of this subchapter notwithstanding the fact that a criminal penalty is imposed with respect to the same violation.

(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

(3) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 999; Pub. L. 98–473, title II, § 901(a), Oct. 12, 1984, 98 Stat. 2135; Pub. L. 99–570, title I, §§ 1356(c)(1), 1357(a)–(f), (h), Oct. 27, 1986, 100 Stat. 3207–24—3207–26; Pub. L. 100–690, title VI, § 6185(g)(2), Nov. 18, 1988, 102 Stat. 4357; Pub. L. 102–550, title XV, §§ 1511(b), 1525(b), 1535(a)(2), 1561(a), Oct. 28, 1992, 106 Stat. 4057, 4065, 4066, 4071; Pub. L. 103–322, title XXXIII, § 330017(a)(1), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103–325, title IV, §§ 406, 411(b), 413(a)(1), Sept. 23, 1994, 108 Stat. 2247, 2253, 2254; Pub. L. 104–208, div. A, title II, § 2223(3), Sept. 30, 1996, 110 Stat. 3009–415; Pub. L. 107–56, title III, §§ 353(a), 363(a), 365(c)(2)(B)(i), Oct. 26, 2001, 115 Stat. 322, 332, 335; Pub. L. 108–357, title VIII, § 821(a), Oct. 22, 2004, 118 Stat. 1586.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5321(a)(1) | 31:1054(b)(last sentence related to civil penalties). | Oct. 26, 1970, Pub. L. 91–508, §§ 205(b)(last sentence related to civil penalties), 207, 233, 234, 84 Stat. 1120, 1123. |
| | 31:1056(a). | |
| 5321(a)(2) | 31:1103. | |
| 5321(a)(3) | 31:1143(a), (b)(words after last comma). | Sept. 21, 1973, Pub. L. 93–110, § 203(a), (b)(words after last comma), 87 Stat. 353. |
| 5321(b) ..... | 31:1056(b). | |
| 5321(c) ..... | 31:1104. | |

In subsection (a)(1), the words ''or a regulation prescribed under this subchapter'' are added because of the restatement. The words ''(except section 5315 of this title or a regulation prescribed under section 5315)'' are added because 31:1141–1143 was not enacted as a part of the Currency and Foreign Transactions Reporting Act that is restated in this subchapter. The words ''is liable to the United States Government for'' are substituted for ''the Secretary may assess upon'' in 31:1056(a) for consistency in the revised title and with other titles of the United States Code. The words ''the purposes of both civil and criminal penalties for'' in 31:1054(b)(last sentence)(related to civil penalties) are omitted, and the words ''or a regulation prescribed under section 5318(2)'' are added, because of the restatement. The words ''the violation continues'' are added for consistency in the revised title and with other titles of the Code. The word ''separate'' before ''office'' is omitted as surplus.

In subsection (a)(2), the word ''impose'' is substituted for ''assess'' for consistency in the revised title and with other titles of the Code. The word ''additional'' is substituted for 31:1103 (last sentence words before last comma) to eliminate unnecessary words. The words ''or a regulation prescribed under section 5316'' are added because of the restatement. The words ''amount of this'', ''to be filed'', and ''actually'' are omitted as surplus.

Subsection (a)(3) is substituted for 31:1143(a) and (b)(words after last comma) for clarity and consistency and because of the restatement.

In subsection (b), the words ''in the discretion of'', ''in the name of the United States'', and ''of any person'' are omitted as surplus.

In subsection (c), the words ''in his discretion'' and ''upon such terms and conditions as he deems reason-

[1] So in original. Section 5317 does not contain a subsec. (d).

able and just'' are omitted as surplus. The word ''civil'' is added for clarity.

REFERENCES IN TEXT

Sections 3 and 21 of the Federal Deposit Insurance Act, referred to in subsecs. (a)(1) and (e)(1), are classified to sections 1813 and 1829b, respectively, of Title 12, Banks and Banking.

Section 123 of Public Law 91–508, referred to in subsec. (a)(1), is classified to section 1953 of Title 12, Banks and Banking.

AMENDMENTS

2004—Subsec. (a)(5). Pub. L. 108–357 amended heading and text of par. (5) generally, inserting provisions changing the penalties for violating section 5314 of this title and providing a reasonable cause exception.

2001—Subsec. (a)(1). Pub. L. 107–56, §§353(a), 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' in two places, ''or order issued'' after ''subchapter or a regulation prescribed'', and '', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''sections 5314 and 5315)''.

Subsec. (a)(6). Pub. L. 107–56, §365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' wherever appearing.

Subsec. (a)(7). Pub. L. 107–56, §363(a), added par. (7).

1996—Subsec. (a)(7). Pub. L. 104–208 struck out par. (7) which read as follows:

''(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.—

''(A) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

''(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.''

1994—Subsec. (a)(4)(A). Pub. L. 103–325, §411(b), struck out ''willfully'' before ''violates''.

Subsec. (a)(5)(A). Pub. L. 103–322, §330017(a)(1) and Pub. L. 103–325, §413(a)(1), amended subpar. (A) identically, inserting ''any violation of'' after ''causing''.

Subsec. (e). Pub. L. 103–325, §406, added subsec. (e).

1992—Subsec. (a)(4)(C). Pub. L. 102–550, §1525(b), struck out ''under section 5317(d)'' after ''forfeiture to the United States''.

Subsec. (a)(5)(A). Pub. L. 102–550, §1535(a)(2), inserted ''or any person willfully causing'' after ''willfully violates''.

Subsec. (a)(6). Pub. L. 102–550, §1561(a), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''NEGLIGENCE.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.''

Subsec. (a)(7). Pub. L. 102–550, §1511(b), added par. (7).

1988—Subsec. (a)(1). Pub. L. 100–690 inserted ''(if any)'' after ''transaction''.

1986—Subsec. (a)(1). Pub. L. 99–570, §§1356(c)(1), 1357(b), substituted ''sections 5314 and 5315'' for ''section 5315'' in two places, substituted ''5318(a)(2)'' for ''5318(2)'' in two places, and substituted ''the greater of the amount (not to exceed $100,000) involved in the transaction or $25,000'' for ''$10,000''.

Subsec. (a)(4). Pub. L. 99–570, §1357(a), added par. (4).

Subsec. (a)(5). Pub. L. 99–570, §1357(c), added par. (5).

Subsec. (a)(6). Pub. L. 99–570, §1357(d), added par. (6).

Subsec. (b). Pub. L. 99–570, §1357(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary may bring a civil action to recover a civil penalty under subsection (a)(1) or (2) of this section that has not been paid.''

Subsec. (c). Pub. L. 99–570, §1357(h), substituted ''subsection (c) or (d) of section 5317'' for ''section 5317(b)''.

Subsec. (d). Pub. L. 99–570, §1357(f), added subsec. (d).

1984—Subsec. (a)(1). Pub. L. 98–473 substituted ''$10,000'' for ''$1,000''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VIII, §821(b), Oct. 22, 2004, 118 Stat. 1586, provided that: ''The amendment made by this section [amending this section] shall apply to violations occurring after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1561(b) of Pub. L. 102–550 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to violations committed after the date of the enactment of this Act [Oct. 28, 1992].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1357(a) of Pub. L. 99–570, applicable with respect to violations committed after the end of the 3-month period beginning Oct. 27, 1986, see section 1364(b) of Pub. L. 99–570, set out as a note under section 5317 of this title.

Section 1364(c) of Pub. L. 99–570 provided that: ''The amendments made by section 1357 (other than subsection (a) of such section) [amending sections 5321 and 5322 of this title] shall apply with respect to violations committed after the date of the enactment of this Act [Oct. 27, 1986].''

## § 5322. Criminal penalties

(a) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 or 5324 of this title or a regulation prescribed under section 5315 or 5324), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, shall be fined not more than $250,000, or imprisoned for not more than five years, or both.

(b) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter (except section 5315 or 5324 of this title or a regulation prescribed under section 5315 or 5324), or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period, shall be fined not more than $500,000, imprisoned for not more than 10 years, or both.

(c) For a violation of section 5318(a)(2) of this title or a regulation prescribed under section 5318(a)(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(d) A financial institution or agency that violates any provision of subsection (i) or (j) of section 5318, or any special measures imposed under section 5318A, or any regulation prescribed under subsection (i) or (j) of section 5318 or section 5318A, shall be fined in an amount equal to not less than 2 times the amount of the transaction, but not more than $1,000,000.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1000; Pub. L. 98–473, title II, §901(b), Oct. 12, 1984, 98 Stat.

2135; Pub. L. 99–570, title I, §§1356(c)(1), 1357(g), Oct. 27, 1986, 100 Stat. 3207–24, 3207–26; Pub. L. 102–550, title XV, §1504(d)(2), Oct. 28, 1992, 106 Stat. 4055; Pub. L. 103–325, title IV, §411(c)(1), Sept. 23, 1994, 108 Stat. 2253; Pub. L. 107–56, title III, §§353(b), 363(b), Oct. 26, 2001, 115 Stat. 323, 332.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5322(a) ..... | 31:1058. | Oct. 26, 1970, Pub. L. 91–508, §§205(b)(last sentence related to criminal penalties), 209, 210, 84 Stat. 1120, 1121. |
| 5322(b) ..... | 31:1059. | |
| 5322(c) ..... | 31:1054(b)(last sentence related to criminal penalties). | |

In subsections (a) and (b), the words ''(except section 5315 of this title or a regulation prescribed under section 5315)'' are added because 31:1141–1143 was not enacted as part of the Currency and Foreign Transactions Reporting Act that is restated in the subchapter.

In subsection (a), the word ''prescribed'' is added for consistency.

In subsection (b), the words ''or a regulation prescribed under this subchapter'' are added because of the restatement. The words ''committed'' and ''the commission of'' are omitted as surplus. The words ''United States'' are substituted for ''Federal'' for consistency in the revised title and with other titles of the United States Code.

In subsection (c), the words ''the purposes of both civil and criminal penalties for'' are omitted because of the restatement. The word ''separate'' before ''office'' is omitted as surplus.

REFERENCES IN TEXT

Section 21 of the Federal Deposit Insurance Act, referred to in subsecs. (a) and (b), is classified to section 1829b of Title 12, Banks and Banking.

Section 123 of Public Law 91–508, referred to in subsecs. (a) and (b), is classified to section 1953 of Title 12, Banks and Banking.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–56, §353(b)(1), inserted ''or order issued'' after ''willfully violating this subchapter or a regulation prescribed'' and '', or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''under section 5315 or 5324)''.

Subsec. (b). Pub. L. 107–56, §353(b)(2), inserted ''or order issued'' after ''willfully violating this subchapter or a regulation prescribed'' and ''or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''under section 5315 or 5324),''.

Subsec. (d). Pub. L. 107–56, §363(b), added subsec. (d).

1994—Subsecs. (a), (b). Pub. L. 103–325 inserted ''or 5324'' after ''section 5315'' wherever appearing.

1992—Subsec. (a). Pub. L. 102–550 substituted ''imprisoned for'' for ''imprisonment''.

1986—Subsec. (b). Pub. L. 99–570, §1357(g), substituted ''any illegal activity involving'' for ''illegal activity involving transactions of'' and ''10 years'' for ''5 years''.

Subsec. (c). Pub. L. 99–570, §1356(c)(1), substituted ''5318(a)(2)'' for ''5318(2)'' in two places.

1984—Subsec. (a). Pub. L. 98–473, which directed the substitution of ''$250,000, or imprisonment not more than five years, or both'' for ''$1,000, or imprisonment not more than one year, or both'', was executed by substituting the quoted wording for ''$1,000, imprisoned for not more than one year, or both'' to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1357(g) of Pub. L. 99–570 applicable with respect to violations committed after Oct. 27, 1986, see section 1364(c) of Pub. L. 99–570, set out as a note under section 5321 of this title.

## § 5323. Rewards for informants

(a) The Secretary may pay a reward to an individual who provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for a violation of this chapter.

(b) The Secretary shall determine the amount of a reward under this section. The Secretary may not award more than 25 per centum of the net amount of the fine, penalty, or forfeiture collected or $150,000, whichever is less.

(c) An officer or employee of the United States, a State, or a local government who provides information described in subsection (a) in the performance of official duties is not eligible for a reward under this section.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Added Pub. L. 98–473, title II, §901(e), Oct. 12, 1984, 98 Stat. 2135.)

## § 5324. Structuring transactions to evade reporting requirement prohibited

(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS INVOLVING FINANCIAL INSTITUTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5313(a) or 5325 or any regulation prescribed under any such section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—

(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a) or 5325 or any regulation prescribed under any such section, to file a report or to maintain a record required by an order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508;

(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) or 5325 or any regulation prescribed under any such section, to file a report or to maintain a record required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.

(b) DOMESTIC COIN AND CURRENCY TRANSACTIONS INVOLVING NONFINANCIAL TRADES OR BUSINESSES.—No person shall, for the purpose of evading the report requirements of section 5331 or any regulation prescribed under such section—

(1) cause or attempt to cause a nonfinancial trade or business to fail to file a report required under section 5331 or any regulation prescribed under such section;

(2) cause or attempt to cause a nonfinancial trade or business to file a report required under section 5331 or any regulation prescribed under such section that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with 1 or more nonfinancial trades or businesses.

(c) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316—

(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.

(d) CRIMINAL PENALTY.—

(1) IN GENERAL.—Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

(Added Pub. L. 99–570, title I, § 1354(a), Oct. 27, 1986, 100 Stat. 3207–22; amended Pub. L. 102–550, title XV, §§ 1517(a), 1525(a), 1535(a)(1), Oct. 28, 1992, 106 Stat. 4059, 4064, 4066; Pub. L. 103–322, title XXXIII, § 330017(a)(2), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 103–325, title IV, §§ 411(a), 413(a)(2), Sept. 23, 1994, 108 Stat. 2253, 2254; Pub. L. 107–56, title III, §§ 353(c), 365(b)(1), (2)(A), Oct. 26, 2001, 115 Stat. 323, 334, 335; Pub. L. 108–458, title VI, § 6203(g), Dec. 17, 2004, 118 Stat. 3747.)

REFERENCES IN TEXT

Section 21 of the Federal Deposit Insurance Act, referred to in subsec. (a), is classified to section 1829b of Title 12, Banks and Banking.

Section 123 of Public Law 91–508, referred to in subsec. (a), is classified to section 1953 of Title 12, Banks and Banking.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458 substituted ''5331'' for ''5333'' wherever appearing.

2001—Subsec. (a). Pub. L. 107–56, §§ 353(c)(1), (2), 365(b)(2)(A), inserted ''Involving Financial Institutions'' after ''Transactions'' in heading, and in introductory provisions, inserted comma after ''No person shall'' and substituted ''section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—'' for ''section—''.

Subsec. (a)(1). Pub. L. 107–56, § 353(c)(3), inserted '', to file a report or to maintain a record required by an order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508'' before semicolon at end.

Subsec. (a)(2). Pub. L. 107–56, § 353(c)(4), inserted '', to file a report or to maintain a record required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,'' after ''regulation prescribed under any such section''.

Subsecs. (b) to (d). Pub. L. 107–56, § 365(b)(1), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1994—Subsec. (a). Pub. L. 103–322, § 330017(a)(2) and Pub. L. 103–325, § 413(a)(2), amended subsec. (a), introductory provisions, identically, substituting ''section 5313(a) or 5325 or any regulation prescribed under any such section'' for ''section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325'' and striking out ''with respect to such transaction'' before dash.

Subsec. (a)(1), (2). Pub. L. 103–322, § 330017(a)(2)(A) and Pub. L. 103–325, § 413(a)(2)(A), amended pars. (1) and (2) identically, substituting ''section 5313(a) or 5325 or any regulation prescribed under any such section'' for ''section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325''.

Subsec. (c). Pub. L. 103–325, § 411(a), added subsec. (c).

1992—Pub. L. 102–550, § 1525(a)(1), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 102–550, §§ 1517(a), 1535(a)(1), inserted the following duplicative provisions ''or section 5325 or regulations prescribed under such section 5325'' and '', section 5325, or the regulations issued thereunder'' after ''section 5313(a)'' wherever appearing.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

EFFECTIVE DATE

Section 1364(a) of Pub. L. 99–570 provided that: ''The amendment made by section 1354 [enacting this section] shall apply with respect to transactions for the payment, receipt, or transfer of United States coins or currency or other monetary instruments completed after the end of the 3-month period beginning on the date of the enactment of this Act [Oct. 27, 1986].''

## § 5325. Identification required to purchase certain monetary instruments

(a) IN GENERAL.—No financial institution may issue or sell a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of $3,000 or more unless—

(1) the individual has a transaction account with such financial institution and the financial institution—

(A) verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual; and

(B) records the method of verification in accordance with regulations which the Secretary of the Treasury shall prescribe; or

(2) the individual furnishes the financial institution with such forms of identification as the Secretary of the Treasury may require in regulations which the Secretary shall prescribe and the financial institution verifies and records such information in accordance with regulations which such Secretary shall prescribe.

(b) REPORT TO SECRETARY UPON REQUEST.—Any information required to be recorded by any financial institution under paragraph (1) or (2) of subsection (a) shall be reported by such institution to the Secretary of the Treasury at the request of such Secretary.

(c) TRANSACTION ACCOUNT DEFINED.—For purposes of this section, the term ''transaction account'' has the meaning given to such term in section 19(b)(1)(C) of the Federal Reserve Act.

(Added Pub. L. 100–690, title VI, § 6185(b), Nov. 18, 1988, 102 Stat. 4355.)

REFERENCES IN TEXT

Section 19(b)(1)(C) of the Federal Reserve Act, referred to in subsec. (c), is classified to section 461(b)(1)(C) of Title 12, Banks and Banking.

### § 5326. Records of certain domestic coin and currency transactions

(a) IN GENERAL.—If the Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate Federal or State law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and reporting requirements are necessary to carry out the purposes of this subtitle and prevent evasions thereof, the Secretary may issue an order requiring any domestic financial institution or nonfinancial trade or business or group of domestic financial institutions or nonfinancial trades or businesses in a geographic area—

(1) to obtain such information as the Secretary may describe in such order concerning—

(A) any transaction in which such financial institution or nonfinancial trade or business is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe; and

(B) any other person participating in such transaction;

(2) to maintain a record of such information for such period of time as the Secretary may require; and

(3) to file a report with respect to any transaction described in paragraph (1)(A) in the manner and to the extent specified in the order.

(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—

(1) IN GENERAL.—The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

(A) to request any financial institution or nonfinancial trade or business (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution or nonfinancial trade or business under this subtitle with respect to any prior transaction (between such financial institution or nonfinancial trade or business and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and

(B) if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution or nonfinancial trade or business failed to provide any copy of such report.

(2) REPORTABLE TRANSACTION DEFINED.—For purposes of this subsection, the term ''reportable transaction'' means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.

(c) NONDISCLOSURE OF ORDERS.—No financial institution or nonfinancial trade or business or officer, director, employee or agent of a financial institution or nonfinancial trade or business subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.

(d) MAXIMUM EFFECTIVE PERIOD FOR ORDER.—No order issued under subsection (a) shall be effective for more than 180 days unless renewed pursuant to the requirements of subsection (a).

(Added Pub. L. 100–690, title VI, § 6185(c), Nov. 18, 1988, 102 Stat. 4355; amended Pub. L. 102–550, title XV, §§ 1514, 1562, Oct. 28, 1992, 106 Stat. 4058, 4072; Pub. L. 107–56, title III, §§ 353(d), 365(c)(2)(B), Oct. 26, 2001, 115 Stat. 323, 335.)

REFERENCES IN TEXT

Section 3(c) of the Federal Deposit Insurance Act, referred to in subsec. (b)(1), is classified to section 1813(c) of Title 12, Banks and Banking.

AMENDMENTS

2001—Subsec.(a). Pub. L. 107–56, § 365(c)(2)(B), inserted ''or nonfinancial trade or business'' after ''financial institution'' and ''or nonfinancial trades or businesses'' for ''financial institutions'' in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution''.

Subsec. (b)(1)(A). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' wherever appearing.

Subsec. (b)(1)(B). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution''.

Subsec. (c). Pub. L. 107–56, § 365(c)(2)(B)(i), inserted ''or nonfinancial trade or business'' after ''financial institution'' in two places.

Subsec. (d). Pub. L. 107–56, § 353(d), substituted ''more than 180 days'' for ''more than 60 days''.

1992—Subsecs. (b) to (d). Pub. L. 102–550 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

### [§ 5327. Repealed. Pub. L. 104–208, div. A, title II, § 2223(1), Sept. 30, 1996, 110 Stat. 3009–415]

Section, added Pub. L. 102–550, title XV, § 1511(a), Oct. 28, 1992, 106 Stat. 4056, required Secretary to prescribe regulations requiring depository institutions to identify and report on financial institution customers.

### § 5328. Whistleblower protections

(a) PROHIBITION AGAINST DISCRIMINATION.—No financial institution or nonfinancial trade or business may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial institution or nonfinancial trade or business or any director, officer, or employee of the financial institution or nonfinancial trade or business.

(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the financial institution or nonfinancial trade or business which committed the violation to—

(1) reinstate the employee to the employee's former position;

(2) pay compensatory damages; or

(3) take other appropriate actions to remedy any past discrimination.

(d) LIMITATION.—The protections of this section shall not apply to any employee who—

(1) deliberately causes or participates in the alleged violation of law or regulation; or

(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

(e) COORDINATION WITH OTHER PROVISIONS OF LAW.—This section shall not apply with respect to any financial institution or nonfinancial trade or business which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q) of the Home Owners' Loan Act[1] (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991).

(Added Pub. L. 102–550, title XV, § 1563(a), Oct. 28, 1992, 106 Stat. 4072; amended Pub. L. 107–56, title III, § 365(c)(2)(B)(i), Oct. 26, 2001, 115 Stat. 335.)

REFERENCES IN TEXT

Section 33 of the Federal Deposit Insurance Act, referred to in subsec. (e), is classified to section 1831j of Title 12, Banks and Banking.

Section 213 of the Federal Credit Union Act, referred to in subsec. (e), is classified to section 1790b of Title 12.

Section 21A(q) of the Home Owners' Loan Act, referred to in subsec. (e), probably means section 21A(q) of the Federal Home Loan Bank Act, which is classified to section 1441a(q) of Title 12.

AMENDMENTS

2001—Subsecs. (a), (c), (e). Pub. L. 107–56 inserted ''or nonfinancial trade or business'' after ''financial institution'' wherever appearing.

### § 5329. Staff commentaries

The Secretary shall—

(1) publish all written rulings interpreting this subchapter; and

(2) annually issue a staff commentary on the regulations issued under this subchapter.

(Added Pub. L. 103–325, title III, § 311(a), Sept. 23, 1994, 108 Stat. 2221.)

### § 5330. Registration of money transmitting businesses

(a) REGISTRATION WITH SECRETARY OF THE TREASURY REQUIRED.—

(1) IN GENERAL.—Any person who owns or controls a money transmitting business shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury not later than the end of the 180-day period beginning on the later of—

(A) the date of enactment of the Money Laundering Suppression Act of 1994; or

(B) the date on which the business is established.

(2) FORM AND MANNER OF REGISTRATION.—Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, by regulation, the form and manner for registering a money transmitting business pursuant to paragraph (1).

(3) BUSINESSES REMAIN SUBJECT TO STATE LAW.—This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

(4) FALSE AND INCOMPLETE INFORMATION.—The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subchapter.

(b) CONTENTS OF REGISTRATION.—The registration of a money transmitting business under subsection (a) shall include the following information:

[1] See References in Text note below.

(1) The name and location of the business.

(2) The name and address of each person who—

(A) owns or controls the business;

(B) is a director or officer of the business; or

(C) otherwise participates in the conduct of the affairs of the business.

(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

(4) An estimate of the volume of business in the coming year (which shall be reported annually to the Secretary).

(5) Such other information as the Secretary of the Treasury may require.

(c) AGENTS OF MONEY TRANSMITTING BUSINESSES.—

(1) MAINTENANCE OF LISTS OF AGENTS OF MONEY TRANSMITTING BUSINESSES.—Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall—

(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

(B) make the list and other information available on request to any appropriate law enforcement agency.

(2) TREATMENT OF AGENT AS MONEY TRANSMITTING BUSINESS.—The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MONEY TRANSMITTING BUSINESS.—The term ''money transmitting business'' means any business other than the United States Postal Service which—

(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;;[1]

(B) is required to file reports under section 5313; and

(C) is not a depository institution (as defined in section 5313(g)).

(2) MONEY TRANSMITTING SERVICE.—The term ''money transmitting service'' includes accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

(e) CIVIL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—Any person who fails to comply with any requirement of this section or any regulation prescribed under this section shall be liable to the United States for a civil penalty of $5,000 for each such violation.

(2) CONTINUING VIOLATION.—Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.

(Added Pub. L. 103–325, title IV, § 408(b), Sept. 23, 1994, 108 Stat. 2250; amended Pub. L. 107–56, title III, § 359(b), Oct. 26, 2001, 115 Stat. 328.)

REFERENCES IN TEXT

The date of enactment of the Money Laundering Suppression Act of 1994, referred to in subsec. (a)(1)(A), is the date of enactment of title IV of Pub. L. 103–325, which was approved Sept. 23, 1994.

Section 19(b)(1)(C) of the Federal Reserve Act, referred to in subsec. (b)(3), is classified to section 461(b)(1)(C) of Title 12, Banks and Banking.

AMENDMENTS

2001—Subsec. (d)(1)(A). Pub. L. 107–56 inserted before semicolon ''or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;''.

FINDINGS AND PURPOSES

Section 408(a) of Pub. L. 103–325 provided that:

''(1) FINDINGS.—The Congress hereby finds the following:

''(A) Money transmitting businesses are subject to the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code.

''(B) Money transmitting businesses are largely unregulated businesses and are frequently used in sophisticated schemes to—

''(i) transfer large amounts of money which are the proceeds of unlawful enterprises; and

''(ii) evade the requirements of such subchapter II, the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.], and other laws of the United States.

''(C) Information on the identity of money transmitting businesses and the names of the persons who own or control, or are officers or employees of, a money transmitting business would have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings.

''(2) PURPOSE.—It is the purpose of this section [enacting this section and amending section 1960 of Title 18, Crimes and Criminal Procedure] to establish a registration requirement for businesses engaged in providing check cashing, currency exchange, or money trans-

[1] So in original.

mitting or remittance services, or issuing or redeeming money orders, travelers' checks, and other similar instruments to assist the Secretary of the Treasury, the Attorney General, and other supervisory and law enforcement agencies to effectively enforce the criminal, tax, and regulatory laws and prevent such money transmitting businesses from engaging in illegal activities.''

### § 5331. Reports relating to coins and currency received in nonfinancial trade or business

(a) COIN AND CURRENCY RECEIPTS OF MORE THAN $10,000.—Any person—

(1) who is engaged in a trade or business; and

(2) who, in the course of such trade or business, receives more than $10,000 in coins or currency in 1 transaction (or 2 or more related transactions),

shall file a report described in subsection (b) with respect to such transaction (or related transactions) with the Financial Crimes Enforcement Network at such time and in such manner as the Secretary may, by regulation, prescribe.

(b) FORM AND MANNER OF REPORTS.—A report is described in this subsection if such report—

(1) is in such form as the Secretary may prescribe;

(2) contains—

(A) the name and address, and such other identification information as the Secretary may require, of the person from whom the coins or currency was received;

(B) the amount of coins or currency received;

(C) the date and nature of the transaction; and

(D) such other information, including the identification of the person filing the report, as the Secretary may prescribe.

(c) EXCEPTIONS.—

(1) AMOUNTS RECEIVED BY FINANCIAL INSTITUTIONS.—Subsection (a) shall not apply to amounts received in a transaction reported under section 5313 and regulations prescribed under such section.

(2) TRANSACTIONS OCCURRING OUTSIDE THE UNITED STATES.—Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall not apply to any transaction if the entire transaction occurs outside the United States.

(d) CURRENCY INCLUDES FOREIGN CURRENCY AND CERTAIN MONETARY INSTRUMENTS.—

(1) IN GENERAL.—For purposes of this section, the term ''currency'' includes—

(A) foreign currency; and

(B) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than $10,000.

(2) SCOPE OF APPLICATION.—Paragraph (1)(B) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), or (S) of section 5312(a)(2).

(Added Pub. L. 107–56, title III, § 365(a), Oct. 26, 2001, 115 Stat. 333.)

REGULATIONS

Pub. L. 107–56, title III, § 365(e), formerly § 365(f), Oct. 26, 2001, 115 Stat. 335, renumbered § 365(e) by Pub. L. 108–458, title VI, § 6202(n)(2), Dec. 17, 2004, 118 Stat. 3746, provided that: ''Regulations which the Secretary [of the Treasury] determines are necessary to implement this section [enacting this section and amending sections 5312, 5317, 5318, 5321, 5324, 5326, and 5328 of this title] shall be published in final form before the end of the 6-month period beginning on the date of enactment of this Act [Oct. 26, 2001].''

### § 5332. Bulk cash smuggling into or out of the United States

(a) CRIMINAL OFFENSE.—

(1) IN GENERAL.—Whoever, with the intent to evade a currency reporting requirement under section 5316, knowingly conceals more than $10,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer such currency or monetary instruments from a place within the United States to a place outside of the United States, or from a place outside the United States to a place within the United States, shall be guilty of a currency smuggling offense and subject to punishment pursuant to subsection (b).

(2) CONCEALMENT ON PERSON.—For purposes of this section, the concealment of currency on the person of any individual includes concealment in any article of clothing worn by the individual or in any luggage, backpack, or other container worn or carried by such individual.

(b) PENALTY.—

(1) TERM OF IMPRISONMENT.—A person convicted of a currency smuggling offense under subsection (a), or a conspiracy to commit such offense, shall be imprisoned for not more than 5 years.

(2) FORFEITURE.—In addition, the court, in imposing sentence under paragraph (1), shall order that the defendant forfeit to the United States, any property, real or personal, involved in the offense, and any property traceable to such property.

(3) PROCEDURE.—The seizure, restraint, and forfeiture of property under this section shall be governed by section 413 of the Controlled Substances Act.

(4) PERSONAL MONEY JUDGMENT.—If the property subject to forfeiture under paragraph (2) is unavailable, and the defendant has insufficient substitute property that may be forfeited pursuant to section 413(p) of the Controlled Substances Act, the court shall enter a personal money judgment against the defendant for the amount that would be subject to forfeiture.

(c) CIVIL FORFEITURE.—

(1) IN GENERAL.—Any property involved in a violation of subsection (a), or a conspiracy to commit such violation, and any property traceable to such violation or conspiracy, may be seized and forfeited to the United States.

(2) PROCEDURE.—The seizure and forfeiture shall be governed by the procedures governing civil forfeitures in money laundering cases

pursuant to section 981(a)(1)(A) of title 18, United States Code.

(3) TREATMENT OF CERTAIN PROPERTY AS INVOLVED IN THE OFFENSE.—For purposes of this subsection and subsection (b), any currency or other monetary instrument that is concealed or intended to be concealed in violation of subsection (a) or a conspiracy to commit such violation, any article, container, or conveyance used, or intended to be used, to conceal or transport the currency or other monetary instrument, and any other property used, or intended to be used, to facilitate the offense, shall be considered property involved in the offense.

(Added Pub. L. 107–56, title III, § 371(c), Oct. 26, 2001, 115 Stat. 337; amended Pub. L. 108–458, title VI, § 6203(h), Dec. 17, 2004, 118 Stat. 3747.)

REFERENCES IN TEXT

Section 413 of the Controlled Substances Act, referred to in subsec. (b)(3), (4), is classified to section 853 of Title 21, Food and Drugs.

CODIFICATION

Another section 371(c) of Pub. L. 107–56 amended the table of sections at the beginning of this chapter.

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108–458, § 6203(h)(1), struck out '', subject to subsection (d) of this section'' before period at end.

Subsec. (c)(1). Pub. L. 108–458, § 6203(h)(2), struck out '', subject to subsection (d) of this section,'' after ''may be seized and''.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

BULK CASH SMUGGLING INTO OR OUT OF THE UNITED STATES

Pub. L. 107–56, title III, § 371(a), (b), Oct. 26, 2001, 115 Stat. 336, 337, provided that:

''(a) FINDINGS.—The Congress finds the following:

''(1) Effective enforcement of the currency reporting requirements of subchapter II of chapter 53 of title 31, United States Code, and the regulations prescribed under such subchapter, has forced drug dealers and other criminals engaged in cash-based businesses to avoid using traditional financial institutions.

''(2) In their effort to avoid using traditional financial institutions, drug dealers and other criminals are forced to move large quantities of currency in bulk form to and through the airports, border crossings, and other ports of entry where the currency can be smuggled out of the United States and placed in a foreign financial institution or sold on the black market.

''(3) The transportation and smuggling of cash in bulk form may now be the most common form of money laundering, and the movement of large sums of cash is one of the most reliable warning signs of drug trafficking, terrorism, money laundering, racketeering, tax evasion and similar crimes.

''(4) The intentional transportation into or out of the United States of large amounts of currency or monetary instruments, in a manner designed to circumvent the mandatory reporting provisions of subchapter II of chapter 53 of title 31, United States Code,, [sic] is the equivalent of, and creates the same harm as, the smuggling of goods.

''(5) The arrest and prosecution of bulk cash smugglers are important parts of law enforcement's effort to stop the laundering of criminal proceeds, but the couriers who attempt to smuggle the cash out of the United States are typically low-level employees of large criminal organizations, and thus are easily replaced. Accordingly, only the confiscation of the smuggled bulk cash can effectively break the cycle of criminal activity of which the laundering of the bulk cash is a critical part.

''(6) The current penalties for violations of the currency reporting requirements are insufficient to provide a deterrent to the laundering of criminal proceeds. In particular, in cases where the only criminal violation under current law is a reporting offense, the law does not adequately provide for the confiscation of smuggled currency. In contrast, if the smuggling of bulk cash were itself an offense, the cash could be confiscated as the corpus delicti of the smuggling offense.

''(b) PURPOSES.—The purposes of this section [enacting this section] are—

''(1) to make the act of smuggling bulk cash itself a criminal offense;

''(2) to authorize forfeiture of any cash or instruments of the smuggling offense; and

''(3) to emphasize the seriousness of the act of bulk cash smuggling.''

## SUBCHAPTER III—MONEY LAUNDERING AND RELATED FINANCIAL CRIMES

### § 5340. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATIONS.—The term ''Department of the Treasury law enforcement organizations'' has the meaning given to such term in section 9703(p)(1).

(2) MONEY LAUNDERING AND RELATED FINANCIAL CRIME.—The term ''money laundering and related financial crime''—

(A) means the movement of illicit cash or cash equivalent proceeds into, out of, or through the United States, or into, out of, or through United States financial institutions, as defined in section 5312 of title 31, United States Code; or

(B) has the meaning given that term (or the term used for an equivalent offense) under State and local criminal statutes pertaining to the movement of illicit cash or cash equivalent proceeds.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(4) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2941.)

## PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES STRATEGY

### § 5341. National money laundering and related financial crimes strategy

(a) DEVELOPMENT AND TRANSMITTAL TO CONGRESS.—

(1) DEVELOPMENT.—The President, acting through the Secretary and in consultation

with the Attorney General, shall develop a national strategy for combating money laundering and related financial crimes.

(2) TRANSMITTAL TO CONGRESS.—By August 1 of 1999, 2000, 2001, 2002, 2003, 2005, and 2007, the President shall submit a national strategy developed in accordance with paragraph (1) to the Congress.

(3) SEPARATE PRESENTATION OF CLASSIFIED MATERIAL.—Any part of the strategy that involves information which is properly classified under criteria established by Executive Order shall be submitted to the Congress separately in classified form.

(b) DEVELOPMENT OF STRATEGY.—The national strategy for combating money laundering and related financial crimes shall address any area the President, acting through the Secretary and in consultation with the Attorney General, considers appropriate, including the following:

(1) GOALS, OBJECTIVES, AND PRIORITIES.—Comprehensive, research-based goals, objectives, and priorities for reducing money laundering and related financial crime in the United States.

(2) PREVENTION.—Coordination of regulatory and other efforts to prevent the exploitation of financial systems in the United States for money laundering and related financial crimes, including a requirement that the Secretary shall—

(A) regularly review enforcement efforts under this subchapter and other provisions of law and, when appropriate, modify existing regulations or prescribe new regulations for purposes of preventing such criminal activity; and

(B) coordinate prevention efforts and other enforcement action with the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Federal Trade Commission, other Federal banking agencies, the National Credit Union Administration Board, and such other Federal agencies as the Secretary, in consultation with the Attorney General, determines to be appropriate.

(3) DETECTION AND PROSECUTION INITIATIVES.—A description of operational initiatives to improve detection and prosecution of money laundering and related financial crimes and the seizure and forfeiture of proceeds and instrumentalities derived from such crimes.

(4) ENHANCEMENT OF THE ROLE OF THE PRIVATE FINANCIAL SECTOR IN PREVENTION.—The enhancement of partnerships between the private financial sector and law enforcement agencies with regard to the prevention and detection of money laundering and related financial crimes, including providing incentives to strengthen internal controls and to adopt on an industrywide basis more effective policies.

(5) ENHANCEMENT OF INTERGOVERNMENTAL COOPERATION.—The enhancement of—

(A) cooperative efforts between the Federal Government and State and local officials, including State and local prosecutors and other law enforcement officials; and

(B) cooperative efforts among the several States and between State and local officials, including State and local prosecutors and other law enforcement officials,

for financial crimes control which could be utilized or should be encouraged.

(6) PROJECT AND BUDGET PRIORITIES.—A 3-year projection for program and budget priorities and achievable projects for reductions in financial crimes.

(7) ASSESSMENT OF FUNDING.—A complete assessment of how the proposed budget is intended to implement the strategy and whether the funding levels contained in the proposed budget are sufficient to implement the strategy.

(8) DESIGNATED AREAS.—A description of geographical areas designated as ''high-risk money laundering and related financial crime areas'' in accordance with, but not limited to, section 5342.

(9) PERSONS CONSULTED.—Persons or officers consulted by the Secretary pursuant to subsection (d).

(10) DATA REGARDING TRENDS IN MONEY LAUNDERING AND RELATED FINANCIAL CRIMES.—The need for additional information necessary for the purpose of developing and analyzing data in order to ascertain financial crime trends.

(11) IMPROVED COMMUNICATIONS SYSTEMS.—A plan for enhancing the compatibility of automated information and facilitating access of the Federal Government and State and local governments to timely, accurate, and complete information.

(12) DATA REGARDING FUNDING OF TERRORISM.—Data concerning money laundering efforts related to the funding of acts of international terrorism, and efforts directed at the prevention, detection, and prosecution of such funding.

(c) EFFECTIVENESS REPORT.—At the time each national strategy for combating financial crimes is transmitted by the President to the Congress (other than the first transmission of any such strategy) pursuant to subsection (a), the Secretary shall submit a report containing an evaluation of the effectiveness of policies to combat money laundering and related financial crimes.

(d) CONSULTATIONS.—In addition to the consultations required under this section with the Attorney General, in developing the national strategy for combating money laundering and related financial crimes, the Secretary shall consult with—

(1) the Board of Governors of the Federal Reserve System and other Federal banking agencies and the National Credit Union Administration Board;

(2) State and local officials, including State and local prosecutors;

(3) the Securities and Exchange Commission;

(4) the Commodities and Futures Trading Commission;

(5) the Director of the Office of National Drug Control Policy, with respect to money laundering and related financial crimes involving the proceeds of drug trafficking;

(6) the Chief of the United States Postal Inspection Service;

(7) to the extent appropriate, State and local officials responsible for financial institution and financial market regulation;

(8) any other State or local government authority, to the extent appropriate;

(9) any other Federal Government authority or instrumentality, to the extent appropriate; and

(10) representatives of the private financial services sector, to the extent appropriate.

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2942; amended Pub. L. 107–56, title III, § 354, Oct. 26, 2001, 115 Stat. 323; Pub. L. 108–458, title VI, § 6102(a), Dec. 17, 2004, 118 Stat. 3744.)

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–458 substituted ''August 1'' for ''February 1'' and ''2003, 2005, and 2007,'' for ''and 2003,''.

2001—Subsec. (b)(12). Pub. L. 107–56 added par. (12).

## § 5342. High-risk money laundering and related financial crime areas

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) Money laundering and related financial crimes frequently appear to be concentrated in particular geographic areas, financial systems, industry sectors, or financial institutions.

(B) While the Secretary has the responsibility to act with regard to Federal offenses which are being committed in a particular locality or are directed at a single institution, because modern financial systems and institutions are interconnected to a degree which was not possible until recently, money laundering and other related financial crimes are likely to have local, State, national, and international effects wherever they are committed.

(2) PURPOSE AND OBJECTIVE.—It is the purpose of this section to provide a mechanism for designating any area where money laundering or a related financial crime appears to be occurring at a higher than average rate such that—

(A) a comprehensive approach to the problem of such crime in such area can be developed, in cooperation with State and local law enforcement agencies, which utilizes the authority of the Secretary to prevent such activity; or

(B) such area can be targeted for law enforcement action.

(b) ELEMENT OF NATIONAL STRATEGY.—The designation of certain areas as areas in which money laundering and related financial crimes are extensive or present a substantial risk shall be an element of the national strategy developed pursuant to section 5341(b).

(c) DESIGNATION OF AREAS.—

(1) DESIGNATION BY SECRETARY.—The Secretary, after taking into consideration the factors specified in subsection (d), shall designate any geographical area, industry, sector, or institution in the United States in which money laundering and related financial crimes are extensive or present a substantial risk as a ''high-risk money laundering and related financial crimes area''.

(2) CASE-BY-CASE DETERMINATION IN CONSULTATION WITH THE ATTORNEY GENERAL.—In addition to the factors specified in subsection (d), any designation of any area under paragraph (1) shall be made on the basis of a determination by the Secretary, in consultation with the Attorney General, that the particular area, industry, sector, or institution is being victimized by, or is particularly vulnerable to, money laundering and related financial crimes.

(3) SPECIFIC INITIATIVES.—Any head of a department, bureau, or law enforcement agency, including any State or local prosecutor, involved in the detection, prevention, and suppression of money laundering and related financial crimes and any State or local official or prosecutor may submit—

(A) a written request for the designation of any area as a high-risk money laundering and related financial crimes area; or

(B) a written request for funding under section 5351 for a specific prevention or enforcement initiative, or to determine the extent of financial criminal activity, in an area.

(d) FACTORS.—In considering the designation of any area as a high-risk money laundering and related financial crimes area, the Secretary shall, to the extent appropriate and in consultation with the Attorney General, take into account the following factors:

(1) The population of the area.

(2) The number of bank and nonbank financial institution transactions which originate in such area or involve institutions located in such area.

(3) The number of stock or commodities transactions which originate in such area or involve institutions located in such area.

(4) Whether the area is a key transportation hub with any international ports or airports or an extensive highway system.

(5) Whether the area is an international center for banking or commerce.

(6) The extent to which financial crimes and financial crime-related activities in such area are having a harmful impact in other areas of the country.

(7) The number or nature of requests for information or analytical assistance which—

(A) are made to the analytical component of the Department of the Treasury; and

(B) originate from law enforcement or regulatory authorities located in such area or involve institutions or businesses located in such area or residents of such area.

(8) The volume or nature of suspicious activity reports originating in the area.

(9) The volume or nature of currency transaction reports or reports of cross-border movements of currency or monetary instruments originating in, or transported through, the area.

(10) Whether, and how often, the area has been the subject of a geographical targeting order.

(11) Observed changes in trends and patterns of money laundering activity.

(12) Unusual patterns, anomalies, growth, or other changes in the volume or nature of core economic statistics or indicators.

(13) Statistics or indicators of unusual or unexplained volumes of cash transactions.

(14) Unusual patterns, anomalies, or changes in the volume or nature of transactions conducted through financial institutions operating within or outside the United States.

(15) The extent to which State and local governments and State and local law enforcement agencies have committed resources to respond to the financial crime problem in the area and the degree to which the commitment of such resources reflects a determination by such government and agencies to address the problem aggressively.

(16) The extent to which a significant increase in the allocation of Federal resources to combat financial crimes in such area is necessary to provide an adequate State and local response to financial crimes and financial crime-related activities in such area.

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2944.)

REPORT AND RECOMMENDATIONS

Pub. L. 105–310, § 2(c), Oct. 30, 1998, 112 Stat. 2949, provided that: ''Before the end of the 5-year period beginning on the date the first national strategy for combating money laundering and related financial crimes is submitted to the Congress pursuant to section 5341(a)(1) of title 31, United States Code (as added by section 2(a) of this Act), the Secretary of the Treasury, in consultation with the Attorney General, shall submit a report to the Committee on Banking and Financial Services [now Committee on Financial Services] and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate on the effectiveness of and the need for the designation of areas, under section 5342 of title 31, United States Code (as added by such section 2(a)), as high-risk money laundering and related financial crime areas, together with recommendations for such legislation as the Secretary and the Attorney General may determine to be appropriate to carry out the purposes of such section.''

## PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

### § 5351. Establishment of financial crime-free communities support program

(a) ESTABLISHMENT.—The Secretary of the Treasury, in consultation with the Attorney General, shall establish a program to support local law enforcement efforts in the development and implementation of a program for the detection, prevention, and suppression of money laundering and related financial crimes.

(b) PROGRAM.—In carrying out the program, the Secretary of the Treasury, in consultation with the Attorney General, shall—

(1) make and track grants to grant recipients;

(2) provide for technical assistance and training, data collection, and dissemination of information on state-of-the-art practices that the Secretary determines to be effective in detecting, preventing, and suppressing money laundering and related financial crimes; and

(3) provide for the general administration of the program.

(c) ADMINISTRATION.—The Secretary shall appoint an administrator to carry out the program.

(d) CONTRACTING.—The Secretary may employ any necessary staff and may enter into contracts or agreements with Federal and State law enforcement agencies to delegate authority for the execution of grants and for such other activities necessary to carry out this chapter.

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2946.)

### § 5352. Program authorization

(a) GRANT ELIGIBILITY.—To be eligible to receive an initial grant or a renewal grant under this part, a State or local law enforcement agency or prosecutor shall meet each of the following criteria:

(1) APPLICATION.—The State or local law enforcement agency or prosecutor shall submit an application to the Secretary in accordance with section 5353(a)(2).

(2) ACCOUNTABILITY.—The State or local law enforcement agency or prosecutor shall—

(A) establish a system to measure and report outcomes—

(i) consistent with common indicators and evaluation protocols established by the Secretary, in consultation with the Attorney General; and

(ii) approved by the Secretary;

(B) conduct biennial surveys (or incorporate local surveys in existence at the time of the evaluation) to measure the progress and effectiveness of the coalition; and

(C) provide assurances that the entity conducting an evaluation under this paragraph, or from which the applicant receives information, has experience in gathering data related to money laundering and related financial crimes.

(b) GRANT AMOUNTS.—

(1) GRANTS.—

(A) IN GENERAL.—Subject to subparagraph (D), for a fiscal year, the Secretary of the Treasury, in consultation with the Attorney General, may grant to an eligible applicant under this section for that fiscal year, an amount determined by the Secretary of the Treasury, in consultation with the Attorney General, to be appropriate.

(B) SUSPENSION OF GRANTS.—If such grant recipient fails to continue to meet the criteria specified in subsection (a), the Secretary may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

(C) RENEWAL GRANTS.—Subject to subparagraph (D), the Secretary may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded.

(D) LIMITATION.—The amount of a grant award under this paragraph may not exceed $750,000 for a fiscal year.

(2) GRANT AWARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, with respect to a community, make a grant to one eligible applicant that represents that community.

(B) EXCEPTION.—The Secretary may make a grant to more than one eligible applicant that represent[1] a community if—

(i) the eligible coalitions demonstrate that the coalitions are collaborating with one another; and

(ii) each of the coalitions has independently met the requirements set forth in subsection (a).

(c) CONDITION RELATING TO PROCEEDS OF ASSET FORFEITURES.—

(1) IN GENERAL.—No grant may be made or renewed under this part to any State or local law enforcement agency or prosecutor unless the agency or prosecutor agrees to donate to the Secretary of the Treasury for the program established under this part any amount received by such agency or prosecutor (after the grant is made) pursuant to any criminal or civil forfeiture under chapter 46 of title 18, United States Code, or any similar provision of State law.

(2) SCOPE OF APPLICATION.—Paragraph (1) shall not apply to any amount received by a State or local law enforcement agency or prosecutor pursuant to any criminal or civil forfeiture referred to in such paragraph in excess of the aggregate amount of grants received by such agency or prosecutor under this part.

(d) ROLLING GRANT APPLICATION PERIODS.—In establishing the program under this part, the Secretary shall take such action as may be necessary to ensure, to the extent practicable, that—

(1) applications for grants under this part may be filed at any time during a fiscal year; and

(2) some portion of the funds appropriated under this part for any such fiscal year will remain available for grant applications filed later in the fiscal year.

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2946.)

### § 5353. Information collection and dissemination with respect to grant recipients

(a) APPLICANT AND GRANTEE INFORMATION.—

(1) APPLICATION PROCESS.—The Secretary shall issue requests for proposal, as necessary, regarding, with respect to the grants awarded under section 5352, the application process, grant renewal, and suspension or withholding of renewal grants. Each application under this paragraph shall be in writing and shall be subject to review by the Secretary.

(2) REPORTING.—The Secretary shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a grant recipient and expedite any application for a renewal grant made under this part.

(b) ACTIVITIES OF SECRETARY.—The Secretary may—

(1) evaluate the utility of specific initiatives relating to the purposes of the program;

(2) conduct an evaluation of the program; and

(3) disseminate information described in this subsection to—

(A) eligible State local law enforcement agencies or prosecutors; and

(B) the general public.

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2948.)

### § 5354. Grants for fighting money laundering and related financial crimes

(a) IN GENERAL.—After the end of the 1-year period beginning on the date the first national strategy for combating money laundering and related financial crimes is submitted to the Congress in accordance with section 5341, and subject to subsection (b), the Secretary may review, select, and award grants for State or local law enforcement agencies and prosecutors to provide funding necessary to investigate and prosecute money laundering and related financial crimes in high-risk money laundering and related financial crime areas.

(b) SPECIAL PREFERENCE.—Special preference shall be given to applications submitted to the Secretary which demonstrate collaborative efforts of two or more State and local law enforcement agencies or prosecutors who have a history of Federal, State, and local cooperative law enforcement and prosecutorial efforts in responding to such criminal activity.

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2948.)

### § 5355. Authorization of appropriations

There are authorized to be appropriated the following amounts for the following fiscal years to carry out the purposes of this subchapter:

| For fiscal year: | The amount authorized is: |
|---|---|
| 1999 | $5,000,000. |
| 2000 | $7,500,000. |
| 2001 | $10,000,000. |
| 2002 | $12,500,000. |
| 2003 | $15,000,000. |
| 2004 | $15,000,000. |
| 2005 | $15,000,000. |

(Added Pub. L. 105–310, § 2(a), Oct. 30, 1998, 112 Stat. 2948; amended Pub. L. 108–458, title VI, § 6102(b), Dec. 17, 2004, 118 Stat. 3745.)

AMENDMENTS

2004—Pub. L. 108–458 in table inserted items specifying amounts authorized for fiscal years 2004 and 2005.

## SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING

### § 5361. Congressional findings and purpose

(a) FINDINGS.—Congress finds the following:

(1) Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers.

(2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent such sites.

(3) Internet gambling is a growing cause of debt collection problems for insured depository institutions and the consumer credit industry.

[1] So in original. Probably should be ''represents''.

(4) New mechanisms for enforcing gambling laws on the Internet are necessary because traditional law enforcement mechanisms are often inadequate for enforcing gambling prohibitions or regulations on the Internet, especially where such gambling crosses State or national borders.

(b) RULE OF CONSTRUCTION.—No provision of this subchapter shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.

(Added Pub. L. 109–347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1952.)

INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS

Pub. L. 109–347, title VIII, § 803, Oct. 13, 2006, 120 Stat. 1962, provided that:

''(a) IN GENERAL.—In deliberations between the United States Government and any foreign country on money laundering, corruption, and crime issues, the United States Government should—

''(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

''(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act [probably means title VIII of Pub. L. 109–347, which enacted this subchapter, see Short Title of 2006 Amendment note set out under section 5301 of this title]; and

''(3) encourage the Financial Action Task Force on Money Laundering, in its annual report on money laundering typologies, to study the extent to which Internet gambling operations are being used for money laundering purposes.

''(b) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress on any deliberations between the United States and other countries on issues relating to Internet gambling.''

## § 5362. Definitions

In this subchapter:

(1) BET OR WAGER.—The term ''bet or wager''—

(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

(C) includes any scheme of a type described in section 3702 of title 28;

(D) includes any instructions or information pertaining to the establishment or movement of funds by the bettor or customer in, to, or from an account with the business of betting or wagering; and

(E) does not include—

(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934[1] for the purchase or sale of securities (as that term is defined in section 3(a)(10) of that Act);

(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act;

(iii) any over-the-counter derivative instrument;

(iv) any other transaction that—

(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

(v) any contract of indemnity or guarantee;

(vi) any contract for insurance;

(vii) any deposit or other transaction with an insured depository institution;

(viii) participation in any game or contest in which participants do not stake or risk anything of value other than—

(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

(II) points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

(ix) participation in any fantasy or simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

(III) No winning outcome is based—

(aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or

(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

(2) BUSINESS OF BETTING OR WAGERING.—The term ''business of betting or wagering'' does not include the activities of a financial trans-

[1] So in original. Probably should be followed by a closing parenthesis.

action provider, or any interactive computer service or telecommunications service.

(3) DESIGNATED PAYMENT SYSTEM.—The term ''designated payment system'' means any system utilized by a financial transaction provider that the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, jointly determine, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

(4) FINANCIAL TRANSACTION PROVIDER.—The term ''financial transaction provider'' means a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local payment network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, or other participant in a designated payment system.

(5) INTERNET.—The term ''Internet'' means the international computer network of interoperable packet switched data networks.

(6) INTERACTIVE COMPUTER SERVICE.—The term ''interactive computer service'' has the meaning given the term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(7) RESTRICTED TRANSACTION.—The term ''restricted transaction'' means any transaction or transmittal involving any credit, funds, instrument, or proceeds described in any paragraph of section 5363 which the recipient is prohibited from accepting under section 5363.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(9) STATE.—The term ''State'' means any State of the United States, the District of Columbia, or any commonwealth, territory, or other possession of the United States.

(10) UNLAWFUL INTERNET GAMBLING.—

(A) IN GENERAL.—The term ''unlawful Internet gambling'' means to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.

(B) INTRASTATE TRANSACTIONS.—The term ''unlawful Internet gambling'' does not include placing, receiving, or otherwise transmitting a bet or wager where—

(i) the bet or wager is initiated and received or otherwise made exclusively within a single State;

(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and placed in accordance with the laws of such State, and the State law or regulations include—

(I) age and location verification requirements reasonably designed to block access to minors and persons located out of such State; and

(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with such State's law or regulations; and

(iii) the bet or wager does not violate any provision of—

(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

(II) chapter 178 of title 28 (commonly known as the ''Professional and Amateur Sports Protection Act'');

(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(C) INTRATRIBAL TRANSACTIONS.—The term ''unlawful Internet gambling'' does not include placing, receiving, or otherwise transmitting a bet or wager where—

(i) the bet or wager is initiated and received or otherwise made exclusively—

(I) within the Indian lands of a single Indian tribe (as such terms are defined under the Indian Gaming Regulatory Act); or

(II) between the Indian lands of 2 or more Indian tribes to the extent that intertribal gaming is authorized by the Indian Gaming Regulatory Act;

(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and complies with the requirements of—

(I) the applicable tribal ordinance or resolution approved by the Chairman of the National Indian Gaming Commission; and

(II) with respect to class III gaming, the applicable Tribal-State Compact;

(iii) the applicable tribal ordinance or resolution or Tribal-State Compact includes—

(I) age and location verification requirements reasonably designed to block access to minors and persons located out of the applicable Tribal lands; and

(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with the applicable tribal ordinance or resolution or Tribal-State Compact; and

(iv) the bet or wager does not violate any provision of—

(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

(II) chapter 178 of title 28 (commonly known as the ''Professional and Amateur Sports Protection Act'');

(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(D) INTERSTATE HORSERACING.—

(i) IN GENERAL.—The term ''unlawful Internet gambling'' shall not include any activity that is allowed under the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

(ii) RULE OF CONSTRUCTION REGARDING PREEMPTION.—Nothing in this subchapter may be construed to preempt any State law prohibiting gambling.

(iii) SENSE OF CONGRESS.—It is the sense of Congress that this subchapter shall not change which activities related to horse racing may or may not be allowed under Federal law. This subparagraph is intended to address concerns that this subchapter could have the effect of changing the existing relationship between the Interstate Horseracing Act and other Federal statutes in effect on the date of the enactment of this subchapter. This subchapter is not intended to change that relationship. This subchapter is not intended to resolve any existing disagreements over how to interpret the relationship between the Interstate Horseracing Act and other Federal statutes.

(E) INTERMEDIATE ROUTING.—The intermediate routing of electronic data shall not determine the location or locations in which a bet or wager is initiated, received, or otherwise made.

(11) OTHER TERMS.—

(A) CREDIT; CREDITOR; CREDIT CARD; AND CARD ISSUER.—The terms ''credit'', ''creditor'', ''credit card'', and ''card issuer'' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

(B) ELECTRONIC FUND TRANSFER.—The term ''electronic fund transfer''—

(i) has the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a), except that the term includes transfers that would otherwise be excluded under section 903(6)(E) of that Act; and

(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

(C) FINANCIAL INSTITUTION.—The term ''financial institution'' has the meaning given the term in section 903 of the Electronic Fund Transfer Act, except that such term does not include a casino, sports book, or other business at or through which bets or wagers may be placed or received.

(D) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution''—

(i) has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)); and

(ii) includes an insured credit union (as defined in section 101 of the Federal Credit Union Act).

(E) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms ''money transmitting business'' and ''money transmitting service'' have the meanings given the terms in section 5330(d) (determined without regard to any regulations prescribed by the Secretary thereunder).

(Added Pub. L. 109–347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1953.)

REFERENCES IN TEXT

Sections 3(a)(47) and 28(a) of the Securities Exchange Act of 1934, referred to in par. (1)(E)(i), (iv)(II), are classified to sections 78c(a)(47) and 78bb(a), respectively, of Title 15, Commerce and Trade.

The Commodity Exchange Act, referred to in par. (1)(E)(ii), (iv)(II), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, which is classified generally to chapter 1 (§ 1 et seq.) of Title 7, Agriculture. Section 12(e) of the Act is classified to section 16(e) of Title 7. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

The Interstate Horseracing Act of 1978, referred to in par. (10)(B)(iii)(I), (C)(iv)(I), (D)(i), (iii), is Pub. L. 95–515, Oct. 25, 1978, 92 Stat. 1811, which is classified generally to chapter 57 (§ 3001 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 15 and Tables.

The Gambling Devices Transportation Act, referred to in par. (10)(B)(iii)(III), (C)(iv)(III), is act Jan. 2, 1951, ch. 1194, 64 Stat. 1134, which is classified generally to chapter 24 (§ 1171 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1171 of Title 15 and Tables.

The Indian Gaming Regulatory Act, referred to in par. (10)(B)(iii)(IV), (C)(i), (iv)(IV), is Pub. L. 100–497, Oct. 17, 1988, 102 Stat. 2467, which is classified principally to chapter 29 (§ 2701 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 25 and Tables.

The date of the enactment of this subchapter, referred to in par. (10)(D)(iii), is the date of enactment of Pub. L. 109–347, which was approved Oct. 13, 2006.

Section 101 of the Federal Credit Union Act, referred to in par. (11)(D)(ii), is classified to section 1752 of Title 12, Banks and Banking.

### § 5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling

No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

(1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);

(2) an electronic fund transfer, or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;

(3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or

(4) the proceeds of any other form of financial transaction, as the Secretary and the Board of Governors of the Federal Reserve System may jointly prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

(Added Pub. L. 109–347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1957.)

### § 5364. Policies and procedures to identify and prevent restricted transactions

(a) REGULATIONS.—Before the end of the 270-day period beginning on the date of the enactment of this subchapter, the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General,

shall prescribe regulations (which the Secretary and the Board jointly determine to be appropriate) requiring each designated payment system, and all participants therein, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions in any of the following ways:

(1) The establishment of policies and procedures that—

(A) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and

(B) block restricted transactions identified as a result of the policies and procedures developed pursuant to subparagraph (A).

(2) The establishment of policies and procedures that prevent or prohibit the acceptance of the products or services of the payment system in connection with a restricted transaction.

(b) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations under subsection (a), the Secretary and the Board of Governors of the Federal Reserve System shall—

(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed, as applicable, to be reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of the products or services with respect to each type of restricted transaction;

(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing or prohibiting the acceptance of the products or services of the payment system or participant in connection with, restricted transactions;

(3) exempt certain restricted transactions or designated payment systems from any requirement imposed under such regulations, if the Secretary and the Board jointly find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of, such transactions; and

(4) ensure that transactions in connection with any activity excluded from the definition of unlawful internet gambling in subparagraph (B), (C), or (D)(i) of section 5362(10) are not blocked or otherwise prevented or prohibited by the prescribed regulations.

(c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A financial transaction provider shall be considered to be in compliance with the regulations prescribed under subsection (a) if—

(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant to—

(A) identify and block restricted transactions; or

(B) otherwise prevent or prohibit the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (a).

(d) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTIONS.—A person that identifies and blocks a transaction, prevents or prohibits the acceptance of its products or services in connection with a transaction, or otherwise refuses to honor a transaction—

(1) that is a restricted transaction;

(2) that such person reasonably believes to be a restricted transaction; or

(3) as a designated payment system or a member of a designated payment system in reliance on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under subsection (a),

shall not be liable to any party for such action.

(e) REGULATORY ENFORCEMENT.—The requirements under this section shall be enforced exclusively by—

(1) the Federal functional regulators, with respect to the designated payment systems and financial transaction providers subject to the respective jurisdiction of such regulators under section 505(a) of the Gramm-Leach-Bliley Act and section 5g of the Commodities Exchange Act; and

(2) the Federal Trade Commission, with respect to designated payment systems and financial transaction providers not otherwise subject to the jurisdiction of any Federal functional regulators (including the Commission) as described in paragraph (1).

(Added Pub. L. 109–347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1958.)

REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in subsec. (a), is the date of enactment of Pub. L. 109–347, which was approved Oct. 13, 2006.

Section 505(a) of the Gramm-Leach-Bliley Act, referred to in subsec. (e)(1), is classified to section 6805(a) of Title 15, Commerce and Trade.

Section 5g of the Commodities Exchange Act, referred to in subsec. (e)(1), is classified to section 7b–2 of Title 7, Agriculture.

### § 5365. Civil remedies

(a) JURISDICTION.—In addition to any other remedy under current law, the district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain restricted transactions by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

(b) PROCEEDINGS.—

(1) INSTITUTION BY FEDERAL GOVERNMENT.—

(A) IN GENERAL.—The United States, acting through the Attorney General, may institute proceedings under this section to prevent or restrain a restricted transaction.

(B) RELIEF.—Upon application of the United States under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accord-

ance with rule 65 of the Federal Rules of Civil Procedure.

(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

(A) IN GENERAL.—The attorney general (or other appropriate State official) of a State in which a restricted transaction allegedly has been or will be initiated, received, or otherwise made may institute proceedings under this section to prevent or restrain the violation or threatened violation.

(B) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

(3) INDIAN LANDS.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for a restricted transaction that allegedly has been or will be initiated, received, or otherwise made on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

(i) the United States shall have the enforcement authority provided under paragraph (1); and

(ii) the enforcement authorities specified in an applicable Tribal-State Compact negotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact.

(B) RULE OF CONSTRUCTION.—No provision of this section shall be construed as altering, superseding, or otherwise affecting the application of the Indian Gaming Regulatory Act.

(c) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

(A) be limited to the removal of, or disabling of access to, an online site violating section 5363, or a hypertext link to an online site violating such section, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section under section 5367;

(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

(D) specify the interactive computer service to which it applies; and

(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084(d) of title 18, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

(d) LIMITATION ON INJUNCTIONS AGAINST REGULATED PERSONS.—Notwithstanding any other provision of this section, and subject to section 5367, no provision of this subchapter shall be construed as authorizing the Attorney General of the United States, or the attorney general (or other appropriate State official) of any State to institute proceedings to prevent or restrain a restricted transaction against any financial transaction provider, to the extent that the person is acting as a financial transaction provider.

(Added Pub. L. 109–347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1959.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (b)(1)(B), (2)(B), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Indian Gaming Regulatory Act, referred to in subsec. (b)(3), is Pub. L. 100–497, Oct. 17, 1988, 102 Stat. 2467, which is classified principally to chapter 29 (§ 2701 et seq.) of Title 25, Indians. Section 4 of the Act is classsified to section 2703 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 25 and Tables.

### § 5366. Criminal penalties

(a) IN GENERAL.—Any person who violates section 5363 shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) PERMANENT INJUNCTION.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

(Added Pub. L. 109–347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1961.)

### § 5367. Circumventions prohibited

Notwithstanding section 5362(2), a financial transaction provider, or any interactive computer service or telecommunications service, may be liable under this subchapter if such person has actual knowledge and control of bets and wagers, and—

(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are

offered to be placed, received, or otherwise made; or

(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

(Added Pub. L. 109–347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1961.)

# SUBTITLE V—GENERAL ASSISTANCE ADMINISTRATION


| Chap. | | Sec. |
|---|---|---|
| **61.** | **Program Information** | **6101** |
| **62.** | **Consolidated Federal Funds Report** | **6201** |
| **63.** | **Using Procurement Contracts and Grant and Cooperative Agreements** | **6301** |
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| **75.** | **Requirements for Single Audits** | **7501** |
| **77.** | **Access to information for debt collection [1]** | **7701** |


AMENDMENTS

1996—Pub. L. 104–134, title III, § 31001(i)(3)(B), Apr. 26, 1996, 110 Stat. 1321–365, which directed that the table of chapters for subtitle VI of this title be amended by inserting a new item for chapter 77 ''Access to information for debt collection'' before the item for chapter 91, was executed to the table of chapters for subtitle V of this title by substituting ''Access to information for debt collection'' for ''Loan Requirements'' in item for chapter 77, to reflect the probable intent of Congress.

1994—Pub. L. 103–322, title III, § 31002, Sept. 13, 1994, 108 Stat. 1882, added item for chapter 67.

Pub. L. 103–272, § 4(f)(1)(Y)(ii), July 5, 1994, 108 Stat. 1363, added item for chapter 77.

1986—Pub. L. 99–547, § 2(c), Oct. 27, 1986, 100 Stat. 3060, added item for chapter 62.

Pub. L. 99–272, title XIV, § 14001(b)(1), Apr. 7, 1986, 100 Stat. 328, struck out item for chapter 67 ''Revenue Sharing''.

1984—Pub. L. 98–502, § 2(c), Oct. 19, 1984, 98 Stat. 2334, added item for chapter 75.

## CHAPTER 61—PROGRAM INFORMATION


Sec.
6101. Definitions.
6102. Program information requirements.
6102a. Assistance awards information system.
6103. Access to computer information system.
6104. Catalog of Federal domestic assistance programs.
6105. Oversight responsibility of Director.
6106. Authorization of appropriations.


AMENDMENTS

1983—Pub. L. 98–169, § 6, Nov. 29, 1983, 97 Stat. 1115, added items 6105 and 6106, and struck out item 6105 ''Authorization of appropriations''.

Pub. L. 97–452, § 1(23)(B), Jan. 12, 1983, 96 Stat. 2478, added item 6102a.

### § 6101. Definitions

In this chapter—

(1) ''administering office'' means the lowest unit of an agency responsible for managing a domestic assistance program.

(2) ''agency'' has the same meaning given that term in section 551(1) of title 5.

(3) ''assistance''—

(A) means the transfer of anything of value for a public purpose of support or stimulation authorized by a law of the United States, including—

(i) financial assistance;

(ii) United States Government facilities, services, and property; and

(iii) expert and technical information; and

(B) does not include conventional public information services or procurement of property or services for the direct benefit or use of the Government.

(4) ''domestic assistance program''—

(A) means assistance from an agency for—

(i) a State;

(ii) the District of Columbia;

(iii) a territory or possession of the United States;

(iv) a county;

(v) a city;

(vi) a political subdivision or instrumentality of a governmental authority listed in subclauses (i)–(v) of this clause (A);

(vii) a domestic corporation;

(viii) a domestic institution; and

(ix) an individual of the United States; and

(B) does not include assistance from an agency for an agency.

(5) ''Director'' means the Director of the Office of Management and Budget.

(6) ''Administrator'' means the Administrator of General Services.

(7) ''formula'' means any prescribed method employing objective data or statistical estimates for making individual determinations among recipients of Federal funds, either in terms of eligibility or actual funding allocations, that can be written in the form of either—

(A) a closed mathematical statement; or

(B) an iterative procedure or algorithm which can be written as a computer program;

and from which the results can be objectively replicated, within reasonable limits due to rounding error, through independent application of such statement, procedures, or algorithm, by different qualified individuals.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1000; Pub. L. 98–169, §§ 1(1), 3(a), Nov. 29, 1983, 97 Stat. 1113; Pub. L. 99–547, § 2(b)(2), Oct. 27, 1986, 100 Stat. 3060; Pub. L. 103–272, § 4(f)(1)(S), July 5, 1994, 108 Stat. 1362; Pub. L. 104–287, § 6(a)(1), Oct. 11, 1996, 110 Stat. 3398.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6101(1) | 31:1701(4). | Dec. 28, 1977, Pub. L. 95–220, § 2, 91 Stat. 1615. |

[1] So in original. Probably should be capitalized.

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6101(2) ..... | 31:1701(2). | |
| 6101(3) ..... | 31:1701(1). | |
| 6101(4) ..... | 31:1701(3). | |

In the section, the word ''Federal'' is omitted as unnecessary.

In clause (1), the word ''unit'' is substituted for ''subdivision'' for consistency in the revised title. The words ''direct operational'' are omitted as unnecessary.

In clause (3)(A), the words ''money, property, services, or'' are omitted as being included in ''anything of value''. The word ''for'' is substituted for ''the principal purpose of which is to accomplish'' to eliminate unnecessary words. In subclause (i), the words ''grants, loans, loan guarantees, scholarships, mortgage loans, insurance or other types of'' are omitted as being included in ''financial assistance''. In subclause (ii), the word ''goods'' is omitted as being included in ''property''. The words ''and service activities of regulatory agencies'' are omitted as being included in ''services''. In subclause (iii), the words ''expert and technical information'' are substituted for ''technical assistance, and counseling, statistical and other expert information'' to eliminate unnecessary words.

In clause (3)(B), the words ''or procurement of property or services for the direct benefit or use of the Government'' are added for consistency in subtitle V of the revised title.

In clause (4)(A), the words ''or benefits'' are omitted as being included in ''assistance''. Subclause (ii) is included for consistency in the revised title because the District of Columbia is stated when a provision is meant to apply to the District. In subclause (vi), the word ''grouping'' is omitted as being included in ''political subdivision or instrumentality''. In subclauses (vii)–(ix), the words ''profit or nonprofit'' are omitted as surplus. In subclause (ix), the words ''individual of the United States'' are substituted for ''domestic . . . individual'' for clarity.

AMENDMENTS

1996—Par. (4)(B). Pub. L. 104–287 made technical amendment to directory language of Pub. L. 103–272. See 1994 Amendment note below.

1994—Par. (4)(B). Pub. L. 103–272, as amended by Pub. L. 104–287, substituted ''agency.'' for ''agency'' at end.

1986—Par. (4)(B). Pub. L. 99–547 substituted ''assistance from an agency for an agency'' for ''a department, agency, or instrumentality of the Government.''

1983—Pars. (5), (6). Pub. L. 98–169, §1(1), added pars. (5) and (6).

Par. (7). Pub. L. 98–169, §3(a), added par. (7).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(a) of Pub. L. 104–287 provided that the amendment made by that section is effective July 5, 1994.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–252, title VI, §6201, June 30, 2008, 122 Stat. 2387, provided that: ''This chapter [chapter 2 (§§6201, 6202) of title VI of Pub. L. 110–252, enacting and amending provisions set out as notes under this section] may be cited as the 'Government Funding Transparency Act of 2008'.''

ROLE OF INTERAGENCY COMMITTEE ON DEBARMENT AND SUSPENSION

Pub. L. 110–417, [div. A], title VIII, §873, Oct. 14, 2008, 122 Stat. 4557, provided that:

''(a) REQUIREMENT.—The Interagency Committee on Debarment and Suspension shall—

''(1) resolve issues regarding which of several Federal agencies is the lead agency having responsibility to initiate suspension or debarment proceedings;

''(2) coordinate actions among interested agencies with respect to such action;

''(3) encourage and assist Federal agencies in entering into cooperative efforts to pool resources and achieve operational efficiencies in the Governmentwide suspension and debarment system;

''(4) recommend to the Office of Management and Budget changes to [the] Government suspension and debarment system and its rules, if such recommendations are approved by a majority of the Interagency Committee;

''(5) authorize the Office of Management and Budget to issue guidelines that implement those recommendations;

''(6) authorize the chair of the Committee to establish subcommittees as appropriate to best enable the Interagency Committee to carry out its functions; and

''(7) submit to Congress an annual report on—

''(A) the progress and efforts to improve the suspension and debarment system;

''(B) member agencies' active participation in the committee's work; and

''(C) a summary of each agency's activities and accomplishments in the Governmentwide debarment system.

''(b) DEFINITION.—The term 'Interagency Committee on Debarment and Suspension' means such committee constituted under sections 4 and 5 and of Executive Order No. 12549 [set out below].''

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY

Pub. L. 110–252, title VI, §6202(b), June 30, 2008, 122 Stat. 2387, provided that: ''The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter [amending Pub. L. 109–282, set out below]. Such regulations shall include a definition of 'total compensation' that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).''

Pub. L. 109–282, Sept. 26, 2006, 120 Stat. 1186, as amended by Pub. L. 110–252, title VI, §6202(a), June 30, 2008, 122 Stat. 2387, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Federal Funding Accountability and Transparency Act of 2006'.

''SEC. 2. FULL DISCLOSURE OF ENTITIES RECEIVING FEDERAL FUNDING.

''(a) DEFINITIONS.—In this section:

''(1) ENTITY.—The term 'entity'—

''(A) includes, whether for profit or nonprofit—

''(i) a corporation;

''(ii) an association;

''(iii) a partnership;

''(iv) a limited liability company;

''(v) a limited liability partnership;

''(vi) a sole proprietorship;

''(vii) any other legal business entity;

''(viii) any other grantee or contractor that is not excluded by subparagraph (B) or (C); and

''(ix) any State or locality;

''(B) on and after January 1, 2009, includes any subcontractor or subgrantee; and

''(C) does not include—

''(i) an individual recipient of Federal assistance; or

''(ii) a Federal employee.

''(2) FEDERAL AWARD.—The term 'Federal award'—

''(A) means Federal financial assistance and expenditures that—

''(i) include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

''(ii) include contracts, subcontracts, purchase orders, task orders, and delivery orders;

''(B) does not include individual transactions below $25,000; and

''(C) before October 1, 2008, does not include credit card transactions.

''(3) SEARCHABLE WEBSITE.—The term 'searchable website' means a website that allows the public to—

''(A) search and aggregate Federal funding by any element required by subsection (b)(1);

''(B) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(i), by fiscal year;

''(C) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(ii), by fiscal year; and

''(D) download data included in subparagraph (A) included in the outcome from searches.

''(b) IN GENERAL.—

''(1) WEBSITE.—Not later than January 1, 2008, the Office of Management and Budget shall, in accordance with this section, section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note), and the Office of Federal Procurement Policy Act (41 U.S.C. 403 [401] et seq.), ensure the existence and operation of a single searchable website, accessible by the public at no cost to access, that includes for each Federal award—

''(A) the name of the entity receiving the award;

''(B) the amount of the award;

''(C) information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;

''(D) the location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country;

''(E) a unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity;

''(F) the names and total compensation of the five most highly compensated officers of the entity if—

''(i) the entity in the preceding fiscal year received—

''(I) 80 percent or more of its annual gross revenues in Federal awards; and

''(II) $25,000,000 or more in annual gross revenues from Federal awards; and

''(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78*o*(d)) or section 6104 of the Internal Revenue Code of 1986. [; and]

''(G) any other relevant information specified by the Office of Management and Budget.

''(2) SCOPE OF DATA.—The website shall include data for fiscal year 2007, and each fiscal year thereafter.

''(3) DESIGNATION OF AGENCIES.—The Director of the Office of Management and Budget is authorized to designate one or more Federal agencies to participate in the development, establishment, operation, and support of the single website. In the initial designation, or in subsequent instructions and guidance, the Director may specify the scope of the responsibilities of each such agency.

''(4) AGENCY RESPONSIBILITIES.—Federal agencies shall comply with the instructions and guidance issued by the Director of the Office of Management and Budget under paragraph (3), and shall provide appropriate assistance to the Director upon request, so as to assist the Director in ensuring the existence and operation of the single website.

''(c) WEBSITE.—The website established under this section—

''(1) may use as the source of its data the Federal Procurement Data System, Federal Assistance Award Data System, and Grants.gov, if all of these data sources are searchable through the website and can be accessed in a search on the website required by this Act, provided that the user may—

''(A) specify such search shall be confined to Federal contracts and subcontracts;

''(B) specify such search shall be confined to include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

''(2) shall not be considered in compliance if it hyperlinks to the Federal Procurement Data System website, Federal Assistance Award Data System website, Grants.gov website, or other existing websites, so that the information elements required by subsection (b)(1) cannot be searched electronically by field in a single search;

''(3) shall provide an opportunity for the public to provide input about the utility of the site and recommendations for improvements;

''(4) shall be updated not later than 30 days after the award of any Federal award requiring a posting; and

''(5) shall provide for separate searches for Federal awards described in subsection (a) to distinguish between the Federal awards described in subsection (a)(2)(A)(i) and those described in subsection (a)(2)(A)(ii).

''(d) SUBAWARD DATA.—

''(1) PILOT PROGRAM.—

''(A) IN GENERAL.—Not later than July 1, 2007, the Director of the Office of Management and Budget shall commence a pilot program to—

''(i) test the collection and accession of data about subgrants and subcontracts; and

''(ii) determine how to implement a subaward reporting program across the Federal Government, including—

''(I) a reporting system under which the entity issuing a subgrant or subcontract is responsible for fulfilling the subaward reporting requirement; and

''(II) a mechanism for collecting and incorporating agency and public feedback on the design and utility of the website.

''(B) TERMINATION.—The pilot program under subparagraph (A) shall terminate not later than January 1, 2009.

''(2) REPORTING OF SUBAWARDS.—

''(A) IN GENERAL.—Based on the pilot program conducted under paragraph (1), and, except as provided in subparagraph (B), not later than January 1, 2009, the Director of the Office of Management and Budget—

''(i) shall ensure that data regarding subawards are disclosed in the same manner as data regarding other Federal awards, as required by this Act; and

''(ii) shall ensure that the method for collecting and distributing data about subawards under clause (i)—

''(I) minimizes burdens imposed on Federal award recipients and subaward recipients;

''(II) allows Federal award recipients and subaward recipients to allocate reasonable costs for the collection and reporting of subaward data as indirect costs; and

''(III) establishes cost-effective requirements for collecting subaward data under block grants, formula grants, and other types of assistance to State and local governments.

''(B) EXTENSION OF DEADLINE.—For subaward recipients that receive Federal funds through State, local, or tribal governments, the Director of the Office of Management and Budget may extend the deadline for ensuring that data regarding such subawards are disclosed in the same manner as data regarding other Federal awards for a period not to exceed 18 months, if the Director determines that compliance would impose an undue burden on the subaward recipient.

''(e) EXCEPTION.—Any entity that demonstrates to the Director of the Office of Management and Budget that the gross income, from all sources, for such entity did not exceed $300,000 in the previous tax year of such entity shall be exempt from the requirement to report subawards under subsection (d), until the Director determines that the imposition of such reporting requirements will not cause an undue burden on such entities.

''(f) CONSTRUCTION.—Nothing in this Act shall prohibit the Office of Management and Budget from including through the website established under this section access to data that is publicly available in any other Federal database.

''(g) REPORT.—

''(1) IN GENERAL.—The Director of the Office of Management and Budget shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives an annual report regarding the implementation of the website established under this section.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

''(A) data regarding the usage and public feedback on the utility of the site (including recommendations for improving data quality and collection);

''(B) an assessment of the reporting burden placed on Federal award and subaward recipients; and

''(C) an explanation of any extension of the subaward reporting deadline under subsection (d)(2)(B), if applicable.

''(3) PUBLICATION.—The Director of the Office of Management and Budget shall make each report submitted under paragraph (1) publicly available on the website established under this section.

''SEC. 3. CLASSIFIED INFORMATION.

''Nothing in this Act shall require the disclosure of classified information.

''SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORTING REQUIREMENT.

''Not later than January 1, 2010, the Comptroller General shall submit to Congress a report on compliance with this Act.''

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT

Pub. L. 106–107, Nov. 20, 1999, 113 Stat. 1486, as amended by Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Federal Financial Assistance Management Improvement Act of 1999'.

''SEC. 2. FINDINGS.

''Congress finds that—

''(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

''(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

''(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

''(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

''SEC. 3. PURPOSES.

''The purposes of this Act are to—

''(1) improve the effectiveness and performance of Federal financial assistance programs;

''(2) simplify Federal financial assistance application and reporting requirements;

''(3) improve the delivery of services to the public; and

''(4) facilitate greater coordination among those responsible for delivering such services.

''SEC. 4. DEFINITIONS.

''In this Act:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(2) FEDERAL AGENCY.—The term 'Federal agency' means any agency as defined under section 551(1) of title 5, United States Code.

''(3) FEDERAL FINANCIAL ASSISTANCE.—The term 'Federal financial assistance' has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

''(4) LOCAL GOVERNMENT.—The term 'local government' means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code).

''(5) NON-FEDERAL ENTITY.—The term 'non-Federal entity' means a State, local government, or nonprofit organization.

''(6) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any corporation, trust, association, cooperative, or other organization that—

''(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

''(B) is not organized primarily for profit; and

''(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

''(7) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

''(8) TRIBAL GOVERNMENT.—The term 'tribal government' means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

''(9) UNIFORM ADMINISTRATIVE RULE.—The term 'uniform administrative rule' means a Governmentwide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

''SEC. 5. DUTIES OF FEDERAL AGENCIES.

''(a) IN GENERAL.—Except as provided under subsection (b), not later than 18 months after the date of the enactment of this Act [Nov. 20, 1999], each Federal agency shall develop and implement a plan that—

''(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

''(2) demonstrates active participation in the interagency process under section 6(a)(2);

''(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

''(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

''(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

''(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

''(7) in cooperation with recipients of Federal financial assistance, establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals

and objectives, which may be done as part of the agency's annual planning responsibilities under 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].

''(b) EXTENSION.—If a Federal agency is unable to comply with subsection (a), the Director may extend for up to 12 months the period for the agency to develop and implement a plan in accordance with subsection (a).

''(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

''(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

''(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

''(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

''SEC. 6. DUTIES OF THE DIRECTOR.

''(a) IN GENERAL.—The Director, in consultation with agency heads and representatives of non-Federal entities, shall direct, coordinate, and assist Federal agencies in establishing—

''(1) a common application and reporting system, including—

''(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

''(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

''(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies; and

''(2) an interagency process for addressing—

''(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

''(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with section 552a of title 5, United States Code; and

''(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

''(b) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

''(c) REVIEW OF PLANS AND REPORTS.—Upon the request of the Director, agencies shall submit to the Director, for the Director's review, information and other reporting regarding agency implementation of this Act.

''(d) EXEMPTIONS.—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which shall be available to the public through the Office of Management and Budget's Internet site.

''(e) REPORT ON RECOMMENDED CHANGES IN LAW.—Not later than 18 months after the date of the enactment of this Act [Nov. 20, 1999], the Director shall submit to Congress a report containing recommendations for changes in law to improve the effectiveness, performance, and coordination of Federal financial assistance programs.

''(f) DEADLINE.—All actions required under this section shall be carried out not later than 18 months after the date of the enactment of this Act [Nov. 20, 1999].

''SEC. 7. EVALUATION.

''(a) IN GENERAL.—The Government Accountability Office shall evaluate the effectiveness of this Act. Not later than 6 years after the date of the enactment of this Act [Nov. 20, 1999], the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

''(b) CONTENTS.—The evaluation under subsection (a) shall—

''(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

''(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

''(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

''SEC. 8. COLLECTION OF INFORMATION.

''Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

''SEC. 9. JUDICIAL REVIEW.

''There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

''SEC. 10. STATUTORY REQUIREMENTS.

''Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

''SEC. 11. EFFECTIVE DATE AND SUNSET.

''This Act shall take effect on the date of the enactment of this Act [Nov. 20, 1999] and shall cease to be effective 8 years after such date of enactment.''

UNIFORM SUSPENSION, DEBARMENT OR EXCLUSION FROM PROCUREMENT OR NONPROCUREMENT ACTIVITY

Pub. L. 103–355, title II, § 2455, Oct. 13, 1994, 108 Stat. 3327, provided that:

''(a) REQUIREMENT FOR REGULATIONS.—Regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549 [set out below], shall have government-wide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency

has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

''(b) AUTHORITY TO GRANT EXCEPTION.—The regulations issued pursuant to subsection (a) shall provide that an agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

''(c) DEFINITIONS.—In this section:

''(1) The term 'procurement activities' means all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

''(2) The term 'nonprocurement activities' means all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

''(3) The term 'agency' means an Executive agency as defined in section 103 of title 5, United States Code.''

TRANSFER OF PERSONNEL, PROPERTY, RECORDS, AND APPROPRIATIONS

Section 7 of Pub. L. 98–169 provided that: ''The Director of the Office of Management and Budget shall transfer to the Administrator of General Services such personnel, property, records, and unexpended balances of appropriations available in connection with any authorities and responsibilities so transferred, as the Director of the Office of Management and Budget determines are necessary to carry out the responsibilities transferred pursuant to this Act [enacting sections 6105 and 6106 of this title, amending sections 6101 to 6104 of this title and repealing section 6105 of this title].''

EX. ORD. NO. 12549. DEBARMENT AND SUSPENSION OF PARTICIPANTS IN FEDERAL PROGRAMS

Ex. Ord. No. 12549, Feb. 18, 1986, 51 F.R. 6370, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

SECTION 1. (a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

(b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

(c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

SEC. 2. To the extent permitted by law, Executive departments and agencies shall:

(a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

(b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

(c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

SEC. 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

SEC. 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

SEC. 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

SEC. 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

SEC. 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make such recommendations as are appropriate further to curb fraud, waste, and abuse.

RONALD REAGAN.

EX. ORD. NO. 12689. DEBARMENT AND SUSPENSION

Ex. Ord. No. 12689, Aug. 16, 1989, 54 F.R. 34131, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to protect the interest of the Federal Government, to deal only with responsible persons, and to insure proper management and integrity in Federal activities, it is hereby ordered as follows:

SECTION 1. *Definitions.* For purposes of this order:

(a) ''Procurement activities'' refers to all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(b) ''Nonprocurement activities'' refers to all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Ex-

ecutive Order No. 12549 [set out above] and the Office of Management and Budget guidelines implementing that order.

(c) ''Agency'' refers to executive departments and agencies.

SEC. 2. *Governmentwide Effect.*

(a) To the extent permitted by law and upon resolution of differences and promulgation of final regulations pursuant to section 3 of this order, the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549, shall have governmentwide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

(b) An agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

SEC. 3. *Implementation.*

(a) The Office of Management and Budget may assist Federal agencies in resolving differences between the provisions contained in the Federal Acquisition Regulation and in regulations issued pursuant to Executive Order No. 12549. The Office of Management and Budget may determine the date of resolution of differences and then shall notify affected agencies of that date.

(b) To implement this order, proposed regulations amending the Federal Acquisition Regulation and the agency regulations issued pursuant to Executive Order No. 12549 shall be published simultaneously within 6 months of the resolution of differences.

(c) Final regulations shall be published simultaneously within 12 months of the publication of the proposed regulations, to be effective 30 days thereafter.

GEORGE BUSH.

### § 6102. Program information requirements

(a) The Director shall collect and review information on domestic assistance programs and shall provide such information to the Administrator. The information on each domestic assistance program shall include the following:

(1) identification of the program by—

(A) title;

(B) authorizing law;

(C) administering office; and

(D) an identifying number assigned by the Director.

(2) a description of the—

(A) program;

(B) objectives of the program;

(C) types of activities financed under the program;

(D) eligibility requirements;

(E) types of assistance;

(F) uses, and restrictions on the use, of assistance; and

(G) duties of recipients under the program.

(3) a specification of each formula governing eligibility for assistance or the distribution of assistance under the program, which shall be described through the use of—

(A) the language used to specify each such formula in the law authorizing the program;

(B) the language used to specify each such formula in any Federal rule promulgated pursuant to the law authorizing the program; or

(C) a mathematical statement which is derived from the language referred to in subparagraphs (A) and (B) of this paragraph;

(4) a description of all data and statistical estimates used to carry out each formula specified pursuant to paragraph (3), and an identification of the sources of such data and estimates;

(5) financial information, including the—

(A) amounts appropriated for the current fiscal year or, if unavailable, the amounts requested by the President and the amounts obligated; and

(B) average amounts of awards made in past years.

(6) identification of information contacts, including the administering office and regional and local offices with their addresses and telephone numbers.

(7) a general description of—

(A) the application requirements and procedures; and

(B) to the extent practical, an estimate of the time required to process the application.

(b) On request of the Director, an agency shall give to the Director current information on all domestic assistance programs administered by the agency. The Director shall be responsible for ensuring that the Administrator incorporates all relevant information received on a regular basis.

(c) The Administrator—

(1) shall ensure that information and catalogs under this chapter are made available to the public at reasonable prices;

(2) may develop information services to assist State and local governments in identifying and obtaining sources of assistance;

(3) shall ensure that the information in the computerized system is made current on a regular basis and that the printed catalog and supplements thereto contain the most current data available at the time of printing; and

(4) shall transmit annually the information compiled under paragraphs (3) and (4) of subsection (a) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1001; Pub. L. 98–169, §§ 1(2), 2, 3(b), (c), Nov. 29, 1983, 97 Stat. 1113, 1114.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6102(a). .... | 31:1703(a) | Dec. 28, 1977, Pub. L. 95–220, §§ 4, 5(d), (e), 91 Stat. 1615, 1616. |
| 6102(b) ..... | 31:1703(b). | |
| 6102(c) ..... | 31:1704(d), (e). | |

In subsection (a), before clause (1), the words in parentheses are omitted as unnecessary because of the restatement. The words ''information on domestic assistance programs. The information on each domestic assistance program shall include the following'' are substituted for ''a Federal Assistance Information Data Base . . . For each Federal domestic assistance pro-

gram the data base shall'' for clarity and consistency. In clause (1)(A), the word ''law'' is substituted for ''statute'' for consistency. In clause (2)(H), the word ''obligations'' is omitted as surplus.

In subsection (c)(1), the word ''catalogs'' is added for clarity.

In subsection (c)(2), the words ''further'', ''officials'', and ''Federal'' are omitted as unnecessary.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–169, § 2(1), substituted ''collect and review information on domestic assistance programs and shall provide such information to the Administrator'' for ''prepare and maintain information on domestic assistance programs''.

Pub. L. 98–169, § 1(2), substituted ''Director'' for ''Director of the Office of Management and Budget''.

Subsec. (a)(2)(E) to (H). Pub. L. 98–169, § 3(b)(1), struck out subpar. (E) relating to formulas governing distribution of amounts, and redesignated subpars. (F) to (H) as (E) to (G), respectively.

Subsec. (a)(3) to (7). Pub. L. 98–169, § 3(b)(2), (3), added pars. (3) and (4) and redesignated former pars. (3) to (5) as (5) to (7), respectively.

Subsec. (b). Pub. L. 98–169, § 2(2), substituted ''The Director shall be responsible for ensuring that the Administrator incorporates all relevant information received on a regular basis'' for ''The Director shall incorporate on a regular basis all relevant information received''.

Subsec. (c). Pub. L. 98–169, § 2(3), substituted ''Administrator'' for ''Director''.

Subsec. (c)(3). Pub. L. 98–169, § 2(4), added par. (3).

Subsec. (c)(4). Pub. L. 98–169, § 3(c), added par. (4).

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 in subsec. (c)(4) of this section relating to annually transmitting information to certain committees of Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of this title, and page 173 of House Document No. 103–7.

CONSOLIDATED FEDERAL FUNDS REPORT

Pub. L. 97–326, Oct. 15, 1982, 96 Stat. 1607, as amended by Pub. L. 97–452, § 4(b), Jan. 12, 1983, 96 Stat. 2480, known as the ''Consolidated Federal Funds Report Act of 1982'', which required the Director of the Office of Management and Budget to prepare Consolidated Federal Funds Reports for the fiscal years 1981 through 1985, was repealed by Pub. L. 99–547, § 2(d), Oct. 27, 1986, 100 Stat. 3060, effective May 1, 1986.

## § 6102a. Assistance awards information system

(a) The Director shall—

(1) maintain the United States Government assistance awards information system established as a result of the study conducted under section 9 of the Federal Program Information Act; and

(2) update the system on a quarterly basis.

(b) To carry out subsection (a) of this section, the Director—

(1) may delegate the responsibility for carrying out subsection (a) of this section to the head of another executive agency;

(2) shall review a report the head of an agency submits to the Director on the method of carrying out subsection (a) of this section; and

(3) may validate, by appropriate means, the method by which an agency prepares the report.

(c) The Director shall transmit promptly after the end of each calendar quarter, free of charge, the data in the system required by subsection (a) to the Committee on Rules and Administration of the Senate and to the Committee on House Oversight of the House of Representatives.

(Added Pub. L. 97–452, § 1(23)(A), Jan. 12, 1983, 96 Stat. 2477; amended Pub. L. 98–169, § 1(2), Nov. 29, 1983, 97 Stat. 1113; Pub. L. 99–547, § 2(b)(1), Oct. 27, 1986, 100 Stat. 3060; Pub. L. 104–186, title II, § 219(b)(2), Aug. 20, 1996, 110 Stat. 1748.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6102a ..... | 31 App.:6102(note). | Oct. 15, 1982, Pub. L. 97–326, § 8, 96 Stat. 1609. |

In subsection (a)(1), the words ''operate and'' are omitted as surplus. The words ''United States Government'' are substituted for ''Federal'' for consistency in the revised title and with other titles of the United States Code. The words ''information system'' are substituted for ''data system'' for consistency with 31:6102. The words ''by the Director'' are omitted as surplus.

In subsection (b)(1), the words ''the head of another executive agency'' are substituted for ''any authority of the executive branch of the Federal Government'' for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words ''the head of'' are added for consistency in the revised title and with other titles of the Code.

REFERENCES IN TEXT

Section 9 of the Federal Program Information Act, referred to in subsec. (a)(1), is section 9 of Pub. L. 95–220, Dec. 28, 1977, 91 Stat. 1617, and was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–186 substituted ''House Oversight'' for ''House Administration''.

1986—Subsec. (c). Pub. L. 99–547 added subsec. (c).

1983—Subsec. (a). Pub. L. 98–169 substituted ''Director'' for ''Director of the Office of Management and Budget''.

CHANGE OF NAME

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

## § 6103. Access to computer information system

(a) The Administrator shall maintain a computerized information system providing access to—

(1) the information described in paragraphs (1), (2), (5), (6), and (7) of section 6102(a) of this title; and

(2) such portions or summaries, as the Administrator considers appropriate, of the information described in paragraphs (3) and (4) of such section.

(b) To the greatest extent practicable, the Administrator shall provide for the widespread availability of the information by available computer terminals.

(c) When the Administrator decides the efficiency of the information system under subsection (a) of this section requires it, the Administrator may make contracts with private organizations to obtain computer time-sharing services, including—

(1) computer telecommunications networks;

(2) computer software; and

(3) associated services.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1002; Pub. L. 98–169, §§1(2), 3(d), 4, Nov. 29, 1983, 97 Stat. 1113, 1114.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6103 ..... | 31:1704(a)–(c). | Dec. 28, 1977, Pub. L. 95–220, §5(a)–(c), 91 Stat. 1616. |

In subsection (a), the words ''establish and'' are omitted as surplus. The word ''information'' is substituted for ''data base'' for consistency. The words ''described in section 6102 of this title'' are added for clarity.

In subsection (b), the words ''contained in the data base'' are omitted as unnecessary.

In subsection (c), the words ''notwithstanding another provision of law to the contrary'' and ''but not limited to'' are omitted as unnecessary.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–169, §3(d), amended subsec. (a) generally, substituting provisions requiring the Administrator to maintain a computerized information system providing access to the information described in section 6102(a)(1), (2), (5), (6), and (7) of this title and such portions or summaries, as the Administrator considers appropriate, of the information described in section 6102(a)(3), (4) of this title for provisions requiring the Director to maintain a computerized information system providing access to the information described in section 6102 of this title.

Pub. L. 98–169, §1(2), substituted ''Director'' for ''Director of the Office of Management and Budget''.

Subsecs. (b), (c). Pub. L. 98–169, §4, substituted ''Administrator'' for ''Director'' wherever appearing.

## § 6104. Catalog of Federal domestic assistance programs

(a) The Administrator shall prepare and publish each year a catalog of domestic assistance programs.

(b) In a form selected by the Administrator, the catalog shall contain—

(1)(A) all substantive information on domestic assistance programs that, at the time the catalog is prepared, is in the system under paragraphs (1), (2), (5), (6), and (7) of section 6102(a) of this title; and

(B) such portions or summaries, as the Administrator considers appropriate, of the information on domestic assistance programs that, at the time the catalog is prepared, is in the system under paragraphs (3) and (4) of section 6102(a) of this title;

(2) information the Administrator decides may be helpful to a potential applicant for or beneficiary of assistance; and

(3) a detailed index.

(c) When the Administrator decides it is necessary, the Administrator shall prepare and publish—

(1) supplements to the catalog; and

(2) specialized compilations by function of information in the catalog.

(d) The Administrator may distribute a catalog without cost to each—

(1) member of Congress;

(2) department, agency, and instrumentality of the United States Government;

(3) State;

(4) general purpose unit of a local government;

(5) Indian tribe recognized by the United States Government;

(6) depository library of Government publications; and

(7) depository designated by the Administrator.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1002; Pub. L. 98–169, §1(2), 3(e), 4, Nov. 29, 1983, 97 Stat. 1113, 1114.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6104(a) ..... | 31:1705(a). | Dec. 28, 1977, Pub. L. 95–220, §6, 91 Stat. 1616. |
| 6104(b) ..... | 31:1705(d). | |
| 6104(c) ..... | 31:1705(b), (c). | |
| 6104(d) ..... | 31:1705(e). | |

In subsection (a), the words in parentheses are omitted as unnecessary.

In subsection (b)(1), the word ''Federal'' is omitted as unnecessary. The words ''system under section 6102(a) of this title'' are substituted for ''data base'' for clarity and consistency.

In subsection (d), before clause (1), the text of 31:1705(e)(1) is omitted as unnecessary because of section 6102(c) of the revised title. The words ''The Director'' are added for clarity and consistency. The words ''member of Congress'' are substituted for ''Members of Congress, Delegates, Resident Commissioners'' for consistency. In clause (6), the words ''depository library of United States Government publications'' are substituted for ''Federal deposit libraries'' as being more precise. In clause (7), the word ''depository'' is substituted for ''other local repositories'' for clarity and to eliminate unnecessary words.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–169, §4, substituted ''Administrator'' for ''Director''.

Pub. L. 98–169, §1(2), substituted ''Director'' for ''Director of the Office of Management and Budget''.

Subsec. (b). Pub. L. 98–169, §4, substituted ''Administrator'' for ''Director'' in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98–169, §3(e), amended par. (1) generally, substituting provisions requiring that the catalog contain all substantive information on domestic assistance programs that is in the system under section 6102(a)(1), (2), and (5)–(7) of this title, and such portions or summaries, as the Administrator considers appropriate, of information in the system under section 6102(a)(3), (4) of this title, at the time the catalog is prepared, for provision requiring that the catalog contain all such information in the system under section

6102(a) of this title at the time the catalog was prepared.

Subsecs. (b)(2), (c), (d). Pub. L. 98–169, § 4, substituted ''Administrator'' for ''Director'' wherever appearing.

### § 6105. Oversight responsibility of Director

The Director shall have oversight responsibility for the exercise of all authorities and responsibilities in this chapter not specifically assigned to the Director.

(Added Pub. L. 98–169, § 5, Nov. 29, 1983, 97 Stat. 1115.)

PRIOR PROVISIONS

A prior section 6105, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1002, related to authorization of appropriations to carry out this chapter, prior to repeal by section 5 of Pub. L. 98–169. See section 6106 of this title.

### § 6106. Authorization of appropriations

After October 1, 1983, there may be appropriated to the Administrator such sums as may be necessary to carry out the responsibilities of this chapter.

(Added Pub. L. 98–169, § 5, Nov. 29, 1983, 97 Stat. 1115.)

## CHAPTER 62—CONSOLIDATED FEDERAL FUNDS REPORT

Sec.
6201. Definitions.
6202. Content, form, and data for report.
6203. Printing and distribution of reports and machine-readable records.
6204. Delegation.
6205. Availability of information.
6206. Data consistency and uniformity of data elements.
6207. Authorization of appropriations.

PRIOR PROVISIONS

Provisions similar to this chapter were contained in Pub. L. 97–326, Oct. 15, 1982, 96 Stat. 1607, as amended, which was set out as a note under section 6102 of this title, prior to repeal by Pub. L. 99–547, § 2(d), Oct. 27, 1986, 100 Stat. 3060, eff. May 1, 1986.

### § 6201. Definitions

As used in this chapter, the term—

(1) ''Director'' means the Director of the Office of Management and Budget;

(2) ''State'' means any State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(3) ''municipality'' means any subcounty unit of general local government that received Federal assistance in the fiscal year that is the subject of the report.

(Added Pub. L. 99–547, § 2(a), Oct. 27, 1986, 100 Stat. 3057.)

SHORT TITLE

Section 1 of Pub. L. 99–547 provided that: ''This Act [enacting this chapter, amending sections 6101 and 6102a of this title, enacting provisions set out as a note under section 6102 of this title, and repealing provisions set out as a note under section 6102 of this title] may be cited as the 'Consolidated Federal Funds Report Amendments of 1985'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### § 6202. Content, form, and data for report

(a) For fiscal years 1986, 1987, 1988, 1989, and 1990, not later than 180 days after the end of each fiscal year, the Director shall prepare a Consolidated Federal Funds Report presenting the total amount of Federal funds that were obligated for expenditure or expended in each State, county or parish, congressional district, and municipality of the United States in appropriate general categories of Federal funds during the preceding fiscal year. To the extent practicable, such categories shall be consistently constituted from year to year. The report shall be in the form described in subsection (b) and shall be based on the data referred to in subsection (c).

(b) The Director shall include in each report required by subsection (a)—

(1) the total amount of Federal funds that were reported obligated for expenditure in each State, county or parish, congressional district, and municipality of the United States in appropriate general categories of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

(2) the total amount of Federal funds that were reported actually expended in each State, county or parish, congressional district, and municipality of the United States in appropriate categories in the fiscal year preceding the fiscal year in which the report is made.

(c) The report required by subsection (a) shall be based on the data included in—

(1) the Federal assistance awards data system established pursuant to section 6102a of this title;

(2) the Federal procurement data system established pursuant to section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5));

(3) the appropriate data files of the Office of Personnel Management;

(4) the payroll, pension, and grants files of the Office of the Secretary of Defense;

(5) the appropriate data files of the United States Postal Service and the Postal Regulatory Commission;

(6) the data system used by the Bureau of the Census to prepare the annual Federal aid to States report;

(7) the retirement and disability files of the United States Coast Guard, the Tennessee Valley Authority, the Commissioned Corps of the Public Health Service, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Foreign Service;

(8) the insurance claims files of the Federal Emergency Management Agency and the Department of Agriculture;

(9) the grants files of the Legal Services Corporation;

(10) the excess earned income tax credit file of the Internal Revenue Service;

(11) the appropriate data files of the National Railroad Passenger Corporation; and

(12) the payroll file of the Federal Bureau of Investigation.

(d) For the purposes of subsection (b), the general categories of Federal funds presented in each report required by subsection (a) shall include data with respect to grants, loans, purchases and contracts, cooperative agreements, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retirement pay, pensions, and disability compensation.

(Added Pub. L. 99–547, § 2(a), Oct. 27, 1986, 100 Stat. 3057; amended Pub. L. 103–272, § 4(f)(1)(T), July 5, 1994, 108 Stat. 1362; Pub. L. 109–435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242.)

AMENDMENTS

2006—Subsec. (c)(5). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission''.

1994—Pub. L. 103–272 substituted ''form,'' for ''form'' in section catchline.

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.

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.

## § 6203. Printing and distribution of reports and machine-readable records

(a)(1) The Director shall—

(A) prepare—

(i) printed copies of each of the reports required by this chapter; and

(ii) machine-readable records of such reports; and

(B) make the printed copies of the reports and the machine-readable records available to the public for purchase at a price fixed under subsection (b).

(2) The Director shall transmit free of charge one of each of the printed copies of the reports required by this chapter to—

(A) each Federal regional depository library;

(B) the Committees on Government Operations, the Budget, and Appropriations of the House of Representatives; and

(C) the Committees on Governmental Affairs, the Budget, and Appropriations of the Senate.

(3) The Director shall also transmit promptly after the end of each calendar year, free of charge, one machine-readable record of the report required by section 6202 to the Committee on Rules and Administration of the Senate and to the Committee on House Oversight of the House of Representatives.

(4) Subject to subsection (b), the Director may, at his discretion, waive all or part of the fee required by subsection (a)(1)(B) of this section.

(b) In carrying out subsection (a)(1)(B), the Director shall, based on the estimates made under paragraphs (1) and (2) of this subsection, fix the price of each printed copy and each machine-readable record of the report so that the aggregate revenues obtained in each fiscal year under subsection (a) will cover as much as is feasible of the incremental costs incurred in making these reports and machine-readable records available for purchase by the public. In computing these costs the Director shall not consider the costs of the activities set forth in sections 6102a and 6205 of this title but shall consider—

(1) the cost of compiling the reports required by this chapter; preparing the printed copies and machine-readable records under subsection (a); and distributing the printed copies and the machine-readable records of the report for each fiscal year; and

(2) the number of printed copies and the number of machine-readable records of the report that will be purchased.

(Added Pub. L. 99–547, § 2(a), Oct. 27, 1986, 100 Stat. 3058; amended Pub. L. 104–186, title II, § 219(b)(3), Aug. 20, 1996, 110 Stat. 1748.)

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–186 substituted ''House Oversight'' for ''House Administration''.

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.

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

## § 6204. Delegation

In order to carry out sections 6202 and 6203 of this chapter, the Director may delegate to any authority of the executive branch of the Federal

Government the responsibility for carrying out such sections. The Director shall oversee the activities of any authority to which responsibilities are delegated under this section and shall monitor the compliance of each authority with respect to the requirements set forth in section 6205.

(Added Pub. L. 99–547, § 2(a), Oct. 27, 1986, 100 Stat. 3059.)

### § 6205. Availability of information

Each head of any authority of the Government having custody of the data files and systems referred to in section 6202(c)—

(1) shall make available to the Director (or other authority to which the Director has delegated the responsibility to carry out such section) the information requested in the form designated; and

(2) is authorized to make available to the Director (or such other authority) such administrative services, equipment, personnel, and facilities (and funds appropriated therefor) as the Director or such authority requires to carry out such section.

(Added Pub. L. 99–547, § 2(a), Oct. 27, 1986, 100 Stat. 3059.)

### § 6206. Data consistency and uniformity of data elements

The Director shall designate a single organizational unit to provide for data consistency and uniform reporting of data elements.

(Added Pub. L. 99–547, § 2(a), Oct. 27, 1986, 100 Stat. 3059.)

### § 6207. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1986, 1987, 1988, 1989, and 1990.

(Added Pub. L. 99–547, § 2(a), Oct. 27, 1986, 100 Stat. 3060.)

## CHAPTER 63—USING PROCUREMENT CONTRACTS AND GRANT AND COOPERATIVE AGREEMENTS

Sec.
6301. Purposes.
6302. Definitions.
6303. Using procurement contracts.
6304. Using grant agreements.
6305. Using cooperative agreements.
6306. Authority to vest title in tangible personal property for research.
6307. Interpretative guidelines and exemptions.
6308. Use of multiple relationships for different parts of jointly financed projects.

### § 6301. Purposes

The purposes of this chapter are to—

(1) promote a better understanding of United States Government expenditures and help eliminate unnecessary administrative requirements on recipients of Government awards by characterizing the relationship between executive agencies and contractors, States, local governments, and other recipients in acquiring property and services and in providing United States Government assistance;

(2) prescribe criteria for executive agencies in selecting appropriate legal instruments to achieve—

(A) uniformity in their use by executive agencies;

(B) a clear definition of the relationships they reflect; and

(C) a better understanding of the responsibilities of the parties to them; and

(3) promote increased discipline in selecting and using procurement contracts, grant agreements, and cooperative agreements, maximize competition in making procurement contracts, and encourage competition in making grants and cooperative agreements.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1003.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6301 ..... | 41:501. | Feb. 3, 1978, Pub. L. 95–224, § 2, 92 Stat. 3. |

In the chapter, the words ''procurement contract'' are substituted for ''contract'' for consistency.

The text of 41:501(a) and (b)(4) is omitted as executed.

ENVIRONMENTAL PROTECTION AGENCY; AGREEMENTS AND GRANTS AFFECTING REAL PROPERTY IN THE DISTRICT OF COLUMBIA

Pub. L. 106–522, § 153, Nov. 22, 2000, 114 Stat. 2474, provided that:

''(a) Nothing in the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301 et seq.) may be construed to prohibit the Administrator of the Environmental Protection Agency from negotiating and entering into cooperative agreements and grants authorized by law which affect real property of the Federal Government in the District of Columbia if the principal purpose of the cooperative agreement or grant is to provide comparable benefits for Federal and non-Federal properties in the District of Columbia.

''(b) Subsection (a) shall apply with respect to fiscal year 2001 and each succeeding fiscal year.''

Similar provisions were contained in Pub. L. 106–553, § 1(a)(1) [§ 153], Dec. 21, 2000, 114 Stat. 2762, 2762A–37, which was repealed, and deemed for all purposes to have never been enacted, by Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–189, effective as if included in Pub. L. 106–553 on the date of its enactment. See section 1(a)(4) [div. A, § 406] of Pub. L. 106–554, set out as an Effective Date and Construction of 2000 Amendment, under section 1155 of Title 20, Education.

### § 6302. Definitions

In this chapter—

(1) ''executive agency'' does not include a mixed-ownership Government corporation.

(2) ''grant agreement'' and ''cooperative agreement'' do not include an agreement under which is provided only—

(A) direct United States Government cash assistance to an individual;

(B) a subsidy;

(C) a loan;

(D) a loan guarantee; or

(E) insurance.

(3) ''local government'' means a unit of government in a State, a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.

(4) ''other recipient'' means a person or recipient (except a State or local government) authorized to receive United States Government assistance or procurement contracts and includes a charitable or educational institution.

(5) ''State'' means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1003.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6302(1) ..... | 41:502(4). | Feb. 3, 1978, Pub. L. 95–224, § 3, 92 Stat. 4. |
| 6302(2) ..... | 41:502(5). | |
| 6302(3) ..... | 41:502(2). | |
| 6302(4) ..... | 41:502(3). | |
| 6302(5) ..... | 41:502(1). | |

Clause (3) restates the source provisions because of the definition of ''executive agency'' in section 102 of the revised title. The words ''a county, municipality, city, town, township'' are omitted as being included in ''a unit of government in a State''.

In clause (5), the words ''the Commonwealth of Puerto Rico'' are omitted as being included in ''territory or possession of the United States'' and as unnecessary because of 48:734. The words ''duties and powers'' are substituted for ''functions'' for consistency in the revised title and with other titles of the United States Code.

## § 6303. Using procurement contracts

An executive agency shall use a procurement contract as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; or

(2) the agency decides in a specific instance that the use of a procurement contract is appropriate.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1004.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6303 ..... | 41:503. | Feb. 3, 1978, Pub. L. 95–224, § 4, 92 Stat. 4. |

The words ''type of'' are omitted as unnecessary. The word ''decides'' is substituted for ''determines'' for consistency.

## § 6304. Using grant agreements

An executive agency shall use a grant agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) substantial involvement is not expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1004.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6304 ..... | 41:504. | Feb. 3, 1978, Pub. L. 95–224, § 5, 92 Stat. 4. |

The words ''type of'' are omitted as unnecessary. The words ''money, property, services'' are omitted as being included in ''a thing of value''. The words ''in order'' are omitted as surplus. The words ''law of the United States'' are substituted for ''Federal statute'' for consistency.

## § 6305. Using cooperative agreements

An executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1004.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6305 ..... | 41:505. | Feb. 3, 1978, Pub. L. 95–224, § 6, 92 Stat. 5. |

The words ''type of'' are omitted as unnecessary. The words ''money, property, services'' are omitted as being included in ''a thing of value''. The words ''law of the United States'' are substituted for ''Federal statute'' for consistency.

IMPLEMENTATION OF NORTH AMERICAN WETLANDS CONSERVATION ACT AND NORTH AMERICAN WATERFOWL MANAGEMENT PLAN

Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 995, provided that: ''Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the Fish and Wildlife Service is hereafter authorized to negotiate and enter into cooperative arrangements and grants with public and private agencies, organizations, institutions, and individuals to implement on a public-private cost sharing basis, the North American Wetlands Conservation Act [16 U.S.C. 4401 et seq.] and the North American Waterfowl Management Plan''.

PRINTING OF EDUCATIONAL MATERIALS AND CONTINUATION OF CHALLENGE COST-SHARE PROGRAM

Pub. L. 102–154, title II, Nov. 13, 1991, 105 Stat. 1018, provided that: ''Notwithstanding the provisions of the

Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301–6308), the Forest Service is authorized hereafter to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals to print educational materials and to continue the Challenge Cost-Share Program.''

BUREAU OF LAND MANAGEMENT; AUTHORIZATION TO USE COOPERATIVE ARRANGEMENTS TO IMPLEMENT CHALLENGE COST-SHARE PROGRAMS

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1918, provided in part that: ''the Bureau [of Land Management] is authorized hereafter to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals, to implement challenge cost-share programs.''

### § 6306. Authority to vest title in tangible personal property for research

The head of an executive agency may vest title in tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research—

(1) when the property is bought with amounts provided under a procurement contract, grant agreement, or cooperative agreement with the institution or organization to conduct basic or applied scientific research;

(2) when the head of the agency decides the vesting furthers the objectives of the agency;

(3) without further obligation to the United States Government; and

(4) under conditions the head of the agency considers appropriate.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1004.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6306 ..... | 41:506. | Feb. 3, 1978, Pub. L. 95–224, § 7, 92 Stat. 5. |

The text of 41:506(a) is omitted as unnecessary because it duplicates the requirements of sections 6303–6305 of the revised title. The word ''equipment'' is omitted as being included in ''tangible personal property''. The words ''amounts provided under a contract, grant agreement, or cooperative agreement'' are substituted for ''such funds'' for clarity. The words ''decides the vesting'' are substituted for ''it is deemed'' for clarity. The word ''conditions'' is substituted for ''terms and conditions'' because it is inclusive.

### § 6307. Interpretative guidelines and exemptions

The Director of the Office of Management and Budget may—

(1) issue supplementary interpretative guidelines to promote consistent and efficient use of procurement contracts, grant agreements, and cooperative agreements; and

(2) exempt a transaction or program of an executive agency from this chapter.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1005.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6307(1) ..... | 41:508. | Feb. 3, 1978, Pub. L. 95–224, § 9, 92 Stat. 6. |
| 6307(2) ..... | 41:501(note). | Feb. 3, 1978, Pub. L. 95–224, § 10(d), 92 Stat. 6; Apr. 1, 1982, Pub. L. 97–162, 96 Stat. 23. |

In clause (2), the word ''exempt'' is substituted for ''except'' for consistency.

### § 6308. Use of multiple relationships for different parts of jointly financed projects

This chapter does not require an executive agency to establish only one relationship between the United States Government and a State, a local government, or other recipient on a jointly financed project involving amounts from more than one program or appropriation when different relationships would otherwise be appropriate for different parts of the project.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1005.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6308 ..... | 41:509. | Feb. 3, 1978, Pub. L. 95–224, § 10(c), 92 Stat. 6. |

The word ''financed'' is substituted for ''funded'', and the word ''amounts'' is substituted for ''funds'', for consistency in the revised title.

## CHAPTER 65—INTERGOVERNMENTAL COOPERATION

Sec.
6501. Definitions.
6502. Information on grants received.
6503. Intergovernmental financing.
6504. Use of existing State or multimember agency to administer grant programs.
6505. Authority to provide specialized or technical services.
6506. Development assistance.
6507. Congressional review of grant programs.
6508. Studies and reports.

AMENDMENTS

1990—Pub. L. 101–453, § 5(c), Oct. 24, 1990, 104 Stat. 1061, substituted ''Intergovernmental financing'' for ''Transfer and deposit requirements'' in item 6503.

### § 6501. Definitions

In this chapter—

(1) ''assistance'' means the transfer of anything of value for a public purpose of support or stimulation that is—

(A) authorized by a law of the United States;

(B) provided by the United States Government through grant or contractual arrangements (including technical assistance programs providing assistance by loan, loan guarantee, or insurance); and

(C) not an annual payment by the United States Government to the District of Columbia government under section 502 of the District of Columbia Home Rule Act (Public Law 93–198, 87 Stat. 813, D.C. Code, § 47–3406).

(2) ''comprehensive planning'' includes, to the extent directly related to area needs or needs of a unit of general local government—

(A) preparation, as a guide for governmental policies and action, of general plans on—

(i) the pattern and intensity of land use;

(ii) providing public facilities (including transportation facilities) and other governmental services; and

(iii) the effective development and use of human and natural resources;

(B) long-range physical and fiscal plans for an action referred to in subparagraph (A);

(C) a program for capital improvements and other major expenditures based on their relative urgency, and definitive financing plans for the expenditures in the earlier years of the program;

(D) coordination of related plans and activities of States and local governments and agencies concerned; and

(E) preparation of regulatory and administrative measures to support the items referred to in subparagraphs (A), (B), (C), and (D).

(3) ''executive agency'' does not include a mixed-ownership Government corporation.

(4)(A) ''grant'' (except as provided in subparagraph (C)) means money, or property provided instead of money, that is paid or provided by the United States Government under a fixed annual or total authorization, to a State, to a local government, or to a beneficiary under a plan or program administered by a State or a local government that is subject to approval by an executive agency, if the authorization—

(i) requires the State or local government to expend non-Government money as a condition of receiving money or property from the United States Government; or

(ii) specifies directly, or establishes by means of a formula, the amount that may be provided to the State or local government, or the amount to be allotted for use in each State by the State, local government, and beneficiaries.

(B) ''grant'' (except as provided in subparagraph (C)) also means money, or property provided instead of money, that is paid or provided by the United States Government to a private, nonprofit community organization eligible to receive amounts under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(C) ''grant'' does not include—

(i) shared revenue;

(ii) payment of taxes;

(iii) payment instead of taxes;

(iv) a loan or repayable advance;

(v) surplus property or surplus agricultural commodities provided as surplus property;

(vi) a payment under a research and development procurement contract or grant awarded directly and on similar terms to all qualifying organizations; or

(vii) a payment to a State or local government as complete reimbursement for costs incurred in paying benefits or providing services to persons entitled to them under a law of the United States.

(5) ''head of a State agency'' includes the designated delegate of the head of the agency.

(6) ''local government'' means a unit of general local government, a school district, or other special district established under State law.

(7) ''Secretary'' means the Secretary of the Treasury.

(8) ''special-purpose unit of local government'' means a special district, public-purpose local government of a State except a school district.

(9) ''State'' means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency, instrumentality, or fiscal agent of a State but does not mean a local government of a State.

(10) ''unit of general local government'' means a county, city, town, village, or other general purpose political subdivision of a State.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1005; Pub. L. 97–452, § 1(24), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 101–453, §§ 3, 5(a), Oct. 24, 1990, 104 Stat. 1058, 1059; Pub. L. 105–33, title XI, § 11717(b), Aug. 5, 1997, 111 Stat. 786.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6501(1) ..... | 42:4201(7). | Oct. 16, 1968, Pub. L. 90–577, §§ 101–107, 109, 110, 82 Stat. 1098, 1100, 1101. |
| 6501(2) ..... | 42:4201(9). | |
| 6501(3) ..... | 42:4201(1). | |
| 6501(4) ..... | 42:4201(6). | |
| 6501(5) ..... | 42:4201(10). | |
| 6501(6) ..... | 42:4201(3). | |
| 6501(7) ..... | 42:4201(5). | |
| 6501(8) ..... | 42:4201(2). | |
| 6501(9) ..... | 42:4201(4). | |

In clause (1), the word ''assistance'' is substituted for '' 'Federal assistance', 'Federal assistance programs', or 'federally assisted programs' '' for consistency in the revised title and to have only one defined term in the chapter. The words ''the transfer of anything of value for a public purpose of support or stimulation that is (A) authorized by a law of the United States'' are substituted for ''programs that provide assistance'' for consistency with section 6101(3) of the revised title. The words ''section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93–198, 87 Stat. 813, D.C. Code § 47–3406)'' are substituted for ''article VI of the District of Columbia Revenue Act of 1947 (D.C. Code secs. 47–2501a and 47–2501b)'' because the former has superseded the latter.

Clause (3) restates the source provisions because of the definition of ''executive agency'' in section 102 of the revised title.

In clause (4)(A) and (B), the word ''grant'' is substituted for '' 'grant' or 'grant-in-aid' '' for consistency in the revised title and to have only one defined term in the chapter.

In clause (4)(B), the words ''a private, nonprofit community organization eligible to receive amounts under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.)'' are substituted for ''a community action agency under the Economic Opportunity Act of 1964, as amended'' because of section 683(c)(2) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 519).

In clause (4)(C), the words ''whether public or private'' are omitted as surplus. The words ''law of the United States'' are substituted for ''Federal laws'' for consistency.

In clause (5), the words ''head of a Federal agency'' are omitted as unnecessary because heads of Federal agencies already have the authority to delegate.

In clause (6), the words ''local government'' are substituted for '' 'political subdivision' or 'local government' '' for consistency in the revised title and to have only one defined term in the chapter. The words ''unit of general local government'' are substituted for ''local unit of government, including specifically a county,

municipality, city, town, township'' to incorporate the definition in clause (9).

In clause (7), the words ''public-purpose local government'' are substituted for ''public-purpose corporation or other strictly limited purpose political subdivision'' to eliminate unnecessary words.

In clause (8), the words ''the Commonwealth of Puerto Rico'' are omitted as being included in ''territory or possession of the United States'' and as necessary because of 48:734.

In clause (9), the word ''parish'' is omitted as included in county because of 1:2.

1983 ACT

This amends 31:6501(1)(B) to clarify the section as enacted by the Act of Sept. 13, 1982 (Pub. L. 97–258, 96 Stat. 1005).

REFERENCES IN TEXT

The Community Services Block Grant Act, referred to in par. (4)(b), is subtitle B (§§ 671–683) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, as amended, which is classified generally to chapter 106 (§ 9901 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 9901 of Title 42 and Tables.

AMENDMENTS

1997—Par. (1)(C). Pub. L. 105–33 substituted ''District of Columbia Home Rule Act'' for ''District of Columbia Self-Government and Governmental Reorganization Act''.

1990—Par. (2)(B). Pub. L. 101–453, § 3(1), substituted ''subparagraph (A)'' for ''subclause (A) of this clause (2)''.

Par. (2)(E). Pub. L. 101–453, § 3(2), substituted ''subparagraphs (A), (B), (C), and (D)'' for ''subclauses (A)–(D) of this clause (2)''.

Par. (4)(A). Pub. L. 101–453, § 3(3), substituted ''subparagraph (C)'' for ''subclause (C) of this clause (4)''.

Par. (4)(B). Pub. L. 101–453, § 3(4), substituted ''subparagraph (C)'' for ''subclause (C) of this clause (4)''.

Par. (7). Pub. L. 101–453, § 5(a)(2), added par. (7). Former par. (7) redesignated (8).

Par. (8). Pub. L. 101–453, § 5(a)(1), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Par. (9). Pub. L. 101–453, § 5(a)(1), (3), redesignated par. (8) as (9), added new text, and struck out former text which read as follows: '''State' means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency or instrumentality of a State but does not mean a local government of a State.'' Former par. (9) redesignated (10).

Par. (10). Pub. L. 101–453, § 5(a)(1), redesignated par. (9) as (10).

1983—Par. (1)(B). Pub. L. 97–452 struck out ''the law of'' after ''provided by''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

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.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–589, § 1, Nov. 10, 1992, 106 Stat. 5133, provided that: ''This Act [amending sections 3718 and 3720A of this title, enacting provisions set out as notes under section 3718 of this title, and amending provisions set out as notes under sections 3335, 3718, and 6503 of this title] may be cited as the 'Cash Management Improvement Act Amendments of 1992'.''

SHORT TITLE OF 1990 AMENDMENT

Section 1 of Pub. L. 101–453 provided that: ''This Act [enacting section 3335 of this title, amending this section and section 6503 of this title, and enacting provisions set out as notes under this section and sections 3335 and 6503 of this title] may be cited as the 'Cash Management Improvement Act of 1990'.''

PURPOSE OF 1990 ACT

Section 2 of Pub. L. 101–453 provided that: ''The purpose of this Act [see Short Title of 1990 Amendment note above] is to ensure greater efficiency, effectiveness, and equity in the exchange of funds between the Federal Government and the States.''

## § 6502. Information on grants received

On request of a chief executive officer of a State, a State legislature, or an official designated by either of them, an executive agency carrying out a grant program to States and local governments shall provide the requesting officer or legislature with written information on the purpose and amounts of grants provided to the State or local government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1007.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6502 ..... | 42:4211. | Oct. 16, 1968, Pub. L. 90–577, § 201, 82 Stat. 1101. |

The words ''chief executive officer'' are substituted for ''Governor'' because the definition of State includes the District of Columbia. The words ''executive agency'' are substituted for ''department or agency of the United States Government'' because of the definition in sections 102 and 6501(3) of the revised title. The words ''shall provide the requesting officer or legislature'' are substituted for the last sentence of 42:4211 to eliminate unnecessary words. The word ''information'' is substituted for ''such data'' because it is more accurate. The words ''in writing'' and ''actual'' are omitted as unnecessary.

## § 6503. Intergovernmental financing

(a) Consistent with program purposes and with regulations of the Secretary, and in accordance with an agreement under subsection (b) entered into by the Secretary and a State—

(1) the head of an executive agency (other than the Tennessee Valley Authority) carrying out a program shall schedule transfers of funds to the State under the program so as to minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means by a State; and

(2) the State shall minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means for program purposes.

(b)(1) The Secretary shall enter into an agreement with each State to which transfers of funds are made, which establishes procedures and requirements for implementing this section.

(2) An agreement under this subsection shall—

(A) specify procedures chosen by the State for carrying out transfers of funds under the agreement;

(B) describe the process by which the Federal Government shall review and approve the implementation of the procedures specified under subparagraph (A);

(C) establish the methods to be used for calculating and documenting payments of interest pursuant to this section; and

(D) specify those types of costs directly incurred by the State for interest calculations required under this section, and require the Secretary to consider those costs in computing payments under this section.

(3) The Secretary shall issue regulations establishing procedures and requirements for implementing this section with respect to a State with which no agreement is entered into by the Secretary under paragraph (1). Such regulations shall apply to a State until such time as the Secretary enters into an agreement with the State under paragraph (1).

(c)(1) The Secretary shall issue regulations that shall require a State, when not inconsistent with program purposes, to pay interest to the United States on funds from the time funds are deposited by the United States to the State's account until the time that funds are paid out by the State in order to redeem checks or warrants or make payments by other means for program purposes. Except as provided under paragraph (3)(B) (relating to the Unemployment Trust Fund), the interest payable under this subsection shall be calculated at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

(2) Except as provided in paragraph (3), amounts received by the United States as payment of interest under this subsection shall be deposited in the Treasury and credited as miscellaneous receipts.

(3)(A) Amounts paid by a State under paragraph (1) as interest on funds paid to a State from a trust fund for which the Secretary is the trustee shall be credited to such trust fund.

(B) Notwithstanding any other provision of this section, amounts of interest paid by a State, on funds drawn from its account in the Unemployment Trust Fund, shall be deposited into that account and shall consist of actual interest earnings by the State, less related banking costs incurred by the State, for the period for which interest is calculated.

(d)(1) If a State disburses its own funds for program purposes in accordance with Federal law, Federal regulation, or Federal-State agreement, the State shall be entitled to interest from the time the State's funds are paid out to redeem checks or warrants, or make payments by other means, until the Federal funds are deposited to the State's bank account. The Secretary shall pay, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary for interest owed to a State under this subsection. Such interest shall be calculated, at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

(2) If interest is paid under this subsection as a result of a State disbursing its own funds before receiving payment from a trust fund for which the Secretary of the Treasury is the trustee, such interest shall be charged against such trust fund.

(e) The budget submitted by the President under section 1105 of this title for a fiscal year shall include a statement specifying, for the most recently completed fiscal year, amounts of interest accrued to the Federal Government under subsection (c) and amounts of interest paid to States under subsection (d).

(f) If a State receives refunds of funds disbursed by the State under a Federal program, the State shall return those refunds to the Federal executive agency administering the program or apply those refunds to reduce the amount of funds owed by the Federal Government to the State under such program. Interest earned on such refunds shall be considered when setting overall interest obligations between the State and the Federal Government as required by this section.

(g) If the Federal Government makes a payment to a recipient under a Federal program, and a portion of the payment is an amount which the Federal Government is paying to such recipient on behalf of a State, such amount shall be considered to be a transfer of funds between the Federal Government and the State for purposes of this section.

(h) A State may not be required by a law or regulation of the United States to deposit funds received by it in a separate bank account. However, a State shall account for funds made available to the State as United States Government funds in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate Federal executive agency on the status and the application of the funds, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the funds received by the State shall be made available to the head of the executive agency, the Inspector General of the executive agency, and the Comptroller General for necessary audits.

(i) The Secretary shall prescribe methods for the payment of interest under this section between the Federal Government and the States, including provisions for offsetting amounts owed by the respective parties. Such methods of payment shall require payment of interest on an annual basis and shall provide for comparable treatment in manner, technique, and timing for both the States and the Federal Government.

(j) Consistent with Federal program purposes and regulations of the Director of the Office of Management and Budget, the head of a Federal executive agency carrying out a program shall execute grant awards to States on a timely basis to assure the availability of funds to accomplish transfers in compliance with subsection (a) of this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1007; Pub. L. 101–453, § 5(b), Oct. 24, 1990, 104 Stat. 1059.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6503(a) ..... | 42:4213. | Oct. 16, 1968, Pub. L. 90–577, §§ 202, 203, 82 Stat. 1101. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6503(b) ..... | 42:4212. | |

In the section, the words ''executive agency'' are substituted for ''Federal departments and agencies'' because of the definition in sections 102 and 6501(3) of the revised title.

In subsection (a), the word ''money'' is substituted for ''funds'' for consistency in the section. The words ''so as'' and ''United States'' are omitted as surplus. The words ''before or after'' are substituted for ''prior to or subsequent to'' for consistency. The words ''subsequent to such transfer of funds'' are omitted as unnecessary the second time they are used.

In subsection (b), the words ''apart from other funds administered by the state'', ''properly'', ''In each case'', and ''examination'' are omitted as unnecessary. The word ''money'' is substituted for ''all federal grant-in-aid funds'' for consistency in the section. The words ''United States Government grant money'' are substituted for ''Federal funds'' for consistency in the revised title. The word ''make'' is substituted for ''render'', the word ''periodic'' is substituted for ''regular'', and the word ''information'' is substituted for ''facts'', for clarity. The words ''or any of their duly authorized representatives'' are omitted as unnecessary. The words ''Records shall be made available to . . . for auditing'' are substituted for ''shall have access for the purpose of audit and examination to any books, documents, papers, and records'' for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

1990—Pub. L. 101–453 amended section generally, substituting provisions relating to intergovernmental financing for provisions relating to transfer and deposit requirements.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5(e) of Pub. L. 101–453, as amended by Pub. L. 102–589, § 2(2)(C), Nov. 10, 1992, 106 Stat. 5133, provided that: ''The amendments made by this section [amending this section and section 6501 of this title] shall take effect on the date of enactment of this Act [Oct. 24, 1990], except that subsections (c) and (d) of section 6503 of title 31, United States Code, as added by subsection (b) of this section (relating to payments of interest between the Federal Government and State governments), shall take effect on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later.''

TREATMENT OF COMPENSATION OR REIMBURSEMENT PAID PURSUANT TO OTHER LAWS

Pub. L. 107–273, div. A, title II, § 204(f), Nov. 2, 2002, 116 Stat. 1776, as amended by Pub. L. 109–162, title XI, § 1151(a), (b), Jan. 5, 2006, 119 Stat. 3112, provided that: ''No compensation or reimbursement paid pursuant to the Southwest Border Prosecutor Initiative (as carried out pursuant to paragraph (3) (117 Stat. 64) under the heading relating to Community Oriented Policing Services of the Department of Justice Appropriations Act, 2003 (title I of division B of Public Law 108–7), or as carried out pursuant to any subsequent authority) or section 501(a) of Public Law 99–603 [8 U.S.C. 1365(a)] (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 [8 U.S.C. 1231(i)] (ch. 477) shall be subject to sections [sic] 3335(b) or 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such sections [sic] 3335(b) or 6503 with respect to any such compensation or reimbursement.''

AGREEMENTS WITH STATES

Section 5(d) of Pub. L. 101–453, as amended by Pub. L. 102–589, § 2(2)(A), (B), Nov. 10, 1992, 106 Stat. 5133, provided that:

''(1) SECRETARY'S EFFORTS TO ENTER AGREEMENTS.—The Secretary of the Treasury shall make all reasonable efforts to enter into an agreement with each State under section 6503(b) of title 31, United States Code, as added by this section (relating to procedures and requirements for transfers of funds between executive agencies and States), by July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later.

''(2) EFFECTIVE DATE OF REGULATIONS.—Regulations issued by the Secretary of the Treasury under subsection (b)(3) of section 6503 of title 31, United States Code, as added by the [this] section (relating to procedures and requirements for transfers of funds involving States not entering agreements), shall take effect on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later.''

GAO REPORT

Section 6 of Pub. L. 101–453, as amended by Pub. L. 102–589, § 2(3), Nov. 10, 1992, 106 Stat. 5133, which directed Comptroller General, five years after Oct. 24, 1990, to submit an audit of the implementation of amendments made by section 5 of Pub. L. 101–453 (which amended this section and section 6501 of this title) and to submit a report to Congress describing results of that audit, was repealed by Pub. L. 104–316, title I, § 115(i), Oct. 19, 1996, 110 Stat. 3835.

## § 6504. Use of existing State or multimember agency to administer grant programs

Notwithstanding a law of the United States providing that one State agency or multimember agency must be established or designated to carry out or supervise the administration of a grant program, the head of the executive agency carrying out the program may, when requested by the executive or legislative authority of the State responsible for the organizational structure of a State government—

(1) waive the one State agency or multimember agency provision on an adequate showing that the provision prevents the establishment of the most effective and efficient organizational arrangement within the State government; and

(2) approve another State administrative structure or arrangement after deciding that the objectives of the law authorizing the grant program will not be endangered by using another State structure or arrangement.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1007.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6504 ..... | 42:4214. | Oct. 16, 1968, Pub. L. 90–577, § 204, 82 Stat. 1101. |

In the section, the word ''agency'' is substituted for ''board or commission'' for consistency in the revised title. Before clause (1), the words ''executive agency'' are substituted for ''Federal department or agency'' because of the definition in sections 102 and 6501(3) of the revised title. The words ''appropriate'' and ''determining or revising'' are omitted as surplus. The words ''Governor or other'' are omitted as covered by ''executive . . . authority''. In clause (2), the words ''after deciding'' are substituted for ''*Provided*, That the head of the Federal department or agency determines'' to eliminate unnecessary words.

## § 6505. Authority to provide specialized or technical services

(a) The President may prescribe statistical and other studies and compilations, develop-

ment projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and other similar services that an executive agency is especially competent and authorized by law to provide. The services prescribed must be consistent with and further the policy of the United States Government of relying on the private enterprise system to provide services reasonably and quickly available through ordinary business channels.

(b) The head of an executive agency may provide services prescribed by the President under this section to a State or local government when—

(1) written request is made by the State or local government; and

(2) payment of pay and all other identifiable costs of providing the services is made to the executive agency by the State or local government making the request.

(c) Payment received by an executive agency for providing services under this section shall be deposited to the credit of the principal appropriation from which the cost of providing the services has been paid or will be charged.

(d) The authority under this section is in addition to authority under another law in effect on October 16, 1968.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1007.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6505(a) ..... | 42:4201(8). | Oct. 16, 1968, Pub. L. 90–577, §§108, 303, 305, 82 Stat. 1100, 1102, 1103. |
| | 42:4222(proviso, words after proviso). | Oct. 16, 1968, Pub. L. 90–577, §302, 82 Stat. 1102; Reorg. Plan No. 2 of 1970, eff. July 1, 1970, §102(a), 84 Stat. 2085. |
| 6505(b) ..... | 42:4222(words before proviso). | |
| 6505(c) ..... | 42:4223. | |
| 6505(d) ..... | 42:4225. | |

In the section, the words ''executive agency'' are substituted for ''Federal department or agency'' and ''department or agency of the executive branch of the Federal Government'' because of the definition in sections 102 and 6501(3) of the revised title.

In subsection (a), the source provisions are consolidated to eliminate an unnecessary definition. The word ''President'' is substituted for ''Director of the Office of Management and Budget'' in 42:4222(proviso, words after proviso) 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. The words ''rules and regulations'' are omitted as unnecessary.

In subsection (b), the word ''may'' is substituted for ''is authorized within his discretion'' for clarity and to omit unnecessary words. The words ''specialized or technical services'' are omitted because of consolidation of the source provisions. The words ''direct or indirect'' are omitted as surplus.

In subsection (c), the word ''Payment'' is substituted for ''moneys'' for consistency in the section. The words ''All'' and ''or any bureau or other administrative division thereof'' are omitted as surplus.

In subsection (d), the words ''and does not supersede'' are omitted as unnecessary. The words ''authority under another law in effect on October 16, 1968'' are substituted for ''authority now possessed'' for clarity. The words ''by any Federal department or agency with respect to furnishing services, whether on a reimbursable or nonreimbursable basis, to State and local units of government'' are omitted as unnecessary.

PERFORMANCE OF SPECIALIZED OR TECHNICAL SERVICES

Pub. L. 106–541, title II, §211, Dec. 11, 2000, 114 Stat. 2592, as amended by Pub. L. 107–66, title I, §109, Nov. 12, 2001, 115 Stat. 496, provided that:

''(a) DEFINITION OF STATE.—In this section, the term 'State' has the meaning given the term in section 6501 of title 31, United States Code.

''(b) AUTHORITY.—The Corps of Engineers may provide specialized or technical services to a Federal agency (other than an agency of the Department of Defense) or a State or local government under section 6505 of title 31, United States Code, only if the chief executive of the requesting entity submits to the Secretary [of the Army]—

''(1) a written request describing the scope of the services to be performed and agreeing to reimburse the Corps for all costs associated with the performance of the services; and

''(2) a certification that includes adequate facts to establish that the services requested are not reasonably and quickly available through ordinary business channels.

''(c) CORPS AGREEMENT TO PERFORM SERVICES.—The Secretary, after receiving a request described in subsection (b) to provide specialized or technical services, shall, before entering into an agreement to perform the services—

''(1) ensure that the requirements of subsection (b) are met with regard to the request for services; and

''(2) execute a certification that includes adequate facts to establish that the Corps is uniquely equipped to perform such services.

''(d) ANNUAL REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than the last day of each calendar year, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report identifying any request submitted by a Federal agency (other than an agency of the Department of Defense) or a State or local government to the Corps to provide specialized or technical services.

''(2) CONTENTS OF REPORT.—The report shall include, with respect to each request described in paragraph (1)—

''(A) a description of the scope of services requested;

''(B) the certifications required under subsection (b) and (c);

''(C) the status of the request;

''(D) the estimated and final cost of the services;

''(E) the status of reimbursement;

''(F) a description of the scope of services performed; and

''(G) copies of all certifications in support of the request.

''(e) ENGINEERING RESEARCH AND DEVELOPMENT CENTER.—The Engineering Research and Development Center is exempt from the requirements of this section.''

TRANSPORTATION OF STATE PRISONERS

Pub. L. 105–119, title I, Nov. 26, 1997, 111 Stat. 2444, provided in part: ''That, for fiscal year 1998 and thereafter, the service of maintaining and transporting State, local, or territorial prisoners shall be considered a specialized or technical service for purposes of 31 U.S.C. 6505, and any prisoners so transported shall be considered persons (transported for other than commercial purposes) whose presence is associated with the performance of a governmental function for purposes of 49 U.S.C. 40102.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–208, div. A, title I, §101(a) [title I], Sept. 30, 1996, 110 Stat. 3009, 3009–5.

## § 6506. Development assistance

(a) The economic and social development of the United States and the achievement of satis-

factory levels of living depend on the sound and orderly development of urban and rural areas. When urbanization proceeds rapidly, the sound and orderly development of urban communities depends to a large degree on the social and economic health and the sound development of smaller communities and rural areas.

(b) The President shall prescribe regulations governing the formulation, evaluation, and review of United States Government programs and projects having a significant impact on area and community development (including programs and projects providing assistance to States and localities) to serve most effectively the basic objectives of subsection (a) of this section. The regulations shall provide for the consideration of concurrently achieving the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between the objectives when they conflict:

(1) appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes.

(2) wise development and conservation of all natural resources.

(3) balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other means to move people and goods.

(4) adequate outdoor recreation and open space.

(5) protection of areas of unique natural beauty and historic and scientific interest.

(6) properly planned community facilities (including utilities for supplying power, water, and communications) for safely disposing of wastes, and for other purposes.

(7) concern for high standards of design.

(c) To the extent possible, all national, regional, State, and local viewpoints shall be considered in planning development programs and projects of the United States Government or assisted by the Government. State and local government objectives and the objectives of regional organizations shall be considered within a framework of national public objectives expressed in laws of the United States. Available projections of future conditions in the United States and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

(d) To the maximum extent possible and consistent with national objectives, assistance for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(e) To the maximum extent practicable, each executive agency carrying out a development assistance program shall consult with and seek advice from all other significantly affected executive agencies in an effort to ensure completely coordinated programs. To the extent possible, systematic planning required by individual United States Government programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning.

(f) When a law of the United States provides that both a special-purpose unit of local government and a unit of general local government are eligible to receive a loan or grant, the head of an executive agency shall make the loan or grant to the unit of general local government instead of the special-purpose unit of local government in the absence of substantial reasons to the contrary.

(g) The President may designate an executive agency to prescribe regulations to carry out this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1008.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6506(a) ..... | 42:4231(a)(1st, 2d sentences). | Oct. 16, 1968, Pub. L. 90–577, §§ 401–403, 82 Stat. 1103. |
| 6506(b) ..... | 42:4231(a)(3d–last sentences). | |
| 6506(c) ..... | 42:4231(b). | |
| 6506(d) ..... | 42:4231(c). | |
| 6506(e) ..... | 42:4231(d), (e). | |
| 6506(f) ..... | 42:4232. | |
| 6506(g) ..... | 42:4233. | |

In subsection (a), the words ''United States'' are substituted for ''the Nation'' for consistency. The word ''When'' is substituted for ''in a time'' for clarity.

In subsection (b), before clause (1), the word ''therefore'' is omitted as unnecessary. The word ''regulations'' is substituted for ''rules and regulations'' for consistency in the revised title and with other titles of the United States Code. In clause (2), the words ''all natural resources'' are substituted for ''natural resources, including land, water, minerals, wildlife, and others'' to eliminate unnecessary words.

In subsection (c), the words ''fully'', ''taken into account'', and ''evaluated'' are omitted as surplus. The words ''development programs and projects of the United States Government or assisted by the Government'' are substituted for ''Federal or federally assisted development programs and projects'', and the words ''laws of the United States'' are substituted for ''Federal law'', for consistency in the revised title.

In subsection (d), the word ''assistance'' is substituted for ''federal aid'' because of the definition in section 6501(1) of the revised title.

In subsection (e), the words ''executive agency'' are substituted for ''Federal department and agency'' and ''Federal departments and agencies'' because of the definition in sections 102 and 6501(3) of the revised title. The words ''To the extent'' are substituted for ''Insofar as'' for consistency.

In subsection (f), the words ''law of the United States'' are substituted for ''Federal law'' for consistency.

In subsection (g), the words ''Office of Management and Budget . . . other'' are omitted as surplus.

EX. ORD. NO. 12372. INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

Ex. Ord. No. 12372, July 14, 1982, 47 F.R. 30959, as amended by Ex. Ord. No. 12416, Apr. 8, 1983, 48 F.R. 15587, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 401(a) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)) [31 U.S.C. 6506(a) and (b)], Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42. U.S.C. 3334) and Section 301 of Title 3 of the United States Code, and in order to foster an intergovernmental partnership and a strengthened federalism by relying on State

and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development, it is hereby ordered as follows:

SECTION 1. Federal agencies shall provide opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance or direct Federal development.

SEC. 2. To the extent the States, in consultation with local general purpose governments, and local special purpose governments they consider appropriate, develop their own processes or refine existing processes for State and local elected officials to review and coordinate proposed Federal financial assistance and direct Federal development, the Federal agencies shall, to the extent permitted by law:

(a) Utilize the State process to determine official views of State and local elected officials.

(b) Communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Make efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the designated State process. For those cases where the concerns cannot be accommodated, Federal officials shall explain the bases for their decision in a timely manner.

(d) Allow the States to simplify and consolidate existing Federally required State plan submissions. Where State planning and budgeting systems are sufficient and where permitted by law, the substitution of State plans for Federally required State plans shall be encouraged by the agencies.

(e) Seek the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas. Existing interstate mechanisms that are redesignated as part of the State process may be used for this purpose.

(f) Support State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a Federally-prescribed membership, which is established for a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

SEC. 3. (a) The State process referred to in Section 2 shall include those where States delegate, in specific instances, to local elected officials the review, coordination, and communication with Federal agencies.

(b) At the discretion of the State and local elected officials, the State process may exclude certain Federal programs from review and comment.

SEC. 4. The Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development. The Office of Management and Budget shall disseminate such lists to the Federal agencies.

SEC. 5. (a) Agencies shall propose rules and regulations governing the formulation, evaluation, and review of proposed Federal financial assistance and direct Federal development pursuant to this Order, to be submitted to the Office of Management and Budget for approval.

(b) The rules and regulations which result from the process indicated in Section 5(a) above shall replace any current rules and regulations and become effective September 30, 1983.

SEC. 6. The Director of the Office of Management and Budget is authorized to prescribe such rules and regulations, if any, as he deems appropriate for the effective implementation and administration of this Order and the Intergovernmental Cooperation Act of 1968 [31 U.S.C. 6501 et seq.]. The Director is also authorized to exercise the authority vested in the President by Section 401(a) of that Act (42 U.S.C. 4231(a)) [31 U.S.C. 6506(a) and (b)] in a manner consistent with this Order.

SEC. 7. The Memorandum of November 8, 1968, is terminated (33 *Fed. Reg.* 16487, November 13, 1968). The Director of the Office of Management and Budget shall revoke OMB Circular A–95, which was issued pursuant to that Memorandum. However, Federal agencies shall continue to comply with the rules and regulations issued pursuant to that Memorandum, including those issued by the Office of Management and Budget, until new rules and regulations have been issued in accord with this Order.

SEC. 8. The Director of the Office of Management and Budget shall report to the President by September 30, 1984 on Federal agency compliance with this Order. The views of State and local elected officials on their experiences with these policies, along with any suggestions for improvement, will be included in the Director's report.

RONALD REAGAN.

## § 6507. Congressional review of grant programs

(a) The committees of Congress having jurisdiction over a grant program authorized by a law of the United States without a specified expiration date for the program shall study the program. The committees may conduct studies separately or jointly and shall report the results of their findings to their respective Houses of Congress not later than the end of each period specified in subsection (b) of this section. The committees shall give special attention to—

(1) the extent to which the purposes of the grants have been met;

(2) the extent to which the objective of the program can be carried on without further assistance;

(3) whether a change in the purpose, direction, or administration of the original program, or in procedures and requirements applicable to the program, should be made; and

(4) the extent to which the program is adequate to meet the growing and changing needs that it was designed to support.

(b)(1) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted before October 16, 1968, shall be conducted before the end of each 4th calendar year after the year during which a study of the program was last conducted under this section.

(2) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted after October 16, 1968, shall be conducted before the end of the 4th calendar year after the year of enactment of the law and before the end of each 4th calendar year thereafter.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1009.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6507(a) ..... | 42:4241(a). | Oct. 16, 1968, Pub. L. 90–577, § 601, 82 Stat. 1106. |
| 6507(b) ..... | 42:4241(b). | |

In the section, the words ''law of the United States'' are substituted for ''Act of Congress'' for clarity. The word ''grants'' is substituted for ''grants-in-aid'', and the words ''grant program'' are substituted for ''grant-in-aid program'', for consistency in the chapter.

In subsection (a), before clause (1), the words ''grant program'' are substituted for ''program under which such grants-in-aid are made'' for consistency in the chapter and to eliminate unnecessary words. The words ''committees of Congress'' are substituted for ''Committee of the Senate and the House of Representatives'' for consistency in the revised title and with other titles of the United States Code. The words ''The committees may conduct'' are added for clarity. The word ''report'' is substituted for ''advise'' for clarity. In clause (2), the word ''assistance'' is substituted for ''financial assistance from the United States'' because of the definition in section 6501(1) of the revised title.

In subsection (b), the words ''prior to the expiration of the fourth calendar year beginning after October 16, 1968, and thereafter'' are omitted as executed.

### § 6508. Studies and reports

(a)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Comptroller General shall study the program. The study shall include a review of—

(A) the extent to which—

(i) the program conflicts with or duplicates other grant programs; and

(ii) more effective, efficient, economical, and uniform administration of the program may be achieved by changing the requirements and procedures applicable to it; and

(B) budgetary, accounting, reporting, and administrative procedures of the program.

(2) The Comptroller General shall submit to Congress a report on a study made under this subsection and any recommendations. To the extent practicable, a report on an expiring program shall be submitted in the year before the year in which a program ends.

(b)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Advisory Commission on Intergovernmental Relations shall study the intergovernmental relations aspects of the program, including—

(A) the impact of the program on the structural organization of States and local governments and on Federal-State-local fiscal relations; and

(B) the coordination of administration of the program by the United States Government and State and local governments.

(2) The Commission shall submit to the committee requesting the study and to Congress a report and any recommendations.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1010.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6508(a) ..... | 42:4242. | Oct. 16, 1968, Pub. L. 90–577, §§ 602, 603, 82 Stat. 1107. |
| 6508(b) ..... | 42:4243. | |

In the section, the words ''of Congress'' are added for clarity. The words ''grant program'' are substituted for ''grant-in-aid program'' for consistency in the chapter.

In subsection (a)(1), before clause (A), the words ''The study shall include a review of'' are substituted for ''to determine'' for clarity. In clause (B), the words ''among other relevant matters'' are omitted as unnecessary.

In subsection (b)(1)(B), the words ''administration of the program by the United States Government'' are substituted for ''Federal administration'' for consistency in the revised title.

In subsection (b)(2), the words ''requesting the study'' are added for clarity.

## CHAPTER 67—FEDERAL PAYMENTS

Sec.
6701. Payments to local governments.
6702. Local Government Fiscal Assistance Fund.
6703. Qualification for payment.
6704. State area allocations; allocations and payments to territorial governments.
6705. Local government allocations.
6706. Income gap multiplier.
6707. State variation of local government allocations.
6708. Adjustments of local government allocations.
6709. Information used in allocation formulas.
6710. Public participation.
6711. Prohibited discrimination.
6712. Discrimination proceedings.
6713. Suspension and termination of payments in discrimination proceedings.
6714. Compliance agreements.
6715. Enforcement by the Attorney General of prohibitions on discrimination.
6716. Civil action by a person adversely affected.
6717. Judicial review.
6718. Investigations and reviews.
6719. Reports.
6720. Definitions, application, and administration.

PRIOR PROVISIONS

A prior chapter 67, consisting of sections 6701 to 6724, related to revenue sharing, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6701. Payments to local governments

(a) PAYMENT AND USE.—

(1) PAYMENT.—The Secretary shall pay to each unit of general local government which qualifies for a payment under this chapter an amount equal to the sum of any amounts allocated to the government under this chapter for each payment period. The Secretary shall pay such amount out of the Local Government Fiscal Assistance Fund under section 6702.

(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more programs of the unit related to—

(A) education to prevent crime;

(B) substance abuse treatment to prevent crime; or

(C) job programs to prevent crime.

(3) COORDINATION.—Programs funded under this title shall be coordinated with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section.

(b) TIMING OF PAYMENTS.—The Secretary shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period provided that the unit of general local government has provided the Secretary with the assurances required by section 6703(d).

(c) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall adjust a payment under this chapter to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

(2) CONSIDERATIONS.—The Secretary may increase or decrease under this subsection a payment to a unit of local government only if the Secretary determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Secretary, by not later than 15 months after receipt from the Secretary, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within one year after receipt from the Secretary.

(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Secretary shall reduce payments in future payment periods accordingly.

(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the Local Government Fiscal Assistance Fund for future payments to units of general local government.

(f) EXPENDITURE WITH DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Of amounts paid to a unit of general local government under this chapter for a payment period, not less than 10 percent of the total combined amounts obligated by the unit for contracts and subcontracts shall be expended with—

(A) small business concerns controlled by socially and economically disadvantaged individuals and women;

(B) historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans; and

(C) qualified HUBZone small business concerns.

(2) EXCEPTION.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term ''small business concern'' has the meaning such term has under section 3 of the Small Business Act;

(B) the term ''socially and economically disadvantaged individuals'' has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section; and

(C) the term ''qualified HUBZone small business concern'' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(*o*)[1]).

(g) NONSUPPLANTING REQUIREMENT.—

(1) IN GENERAL.—Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

(2) BASE LEVEL AMOUNT.—The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the ''base level account'' for the fiscal year in which a grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1859; amended Pub. L. 105–135, title VI, § 604(e)(2), Dec. 2, 1997, 111 Stat. 2633.)

REFERENCES IN TEXT

Sections 3 and 8(d) of the Small Business Act, referred to in subsec. (f)(3), are classified to sections 632 and 637(d), respectively, of Title 15, Commerce and Trade.

PRIOR PROVISIONS

A prior section 6701, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1010; Pub. L. 98–185, §§ 2, 9(a), Nov. 30, 1983, 97 Stat. 1309, 1311, related to definitions and application of chapter, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

AMENDMENTS

1997—Subsec. (f)(1)(C). Pub. L. 105–135, § 604(e)(2)(A), added subpar. (C).

Subsec. (f)(3)(C). Pub. L. 105–135, § 604(e)(2)(B), added subpar. (C).

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.

REGULATIONS

Section 31001(b) of Pub. L. 103–322 provided that: ''Within 90 days of the date of enactment of this Act [Sept. 13, 1994] the Secretary shall issue regulations, which may be interim regulations, to implement subsection (a) [enacting this chapter], modifying the regulations for carrying into effect the Revenue Sharing Act [former chapter 67 of this title] that were in effect as of July 1, 1987, and that were published in 31 C.F.R. part 51. The Secretary need not hold a public hearing before issuing these regulations.''

## § 6702. Local Government Fiscal Assistance Fund

(a) ADMINISTRATION OF FUND.—The Department of the Treasury has a Local Government

[1] So in original. Probably should be ''632(p)''.

Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund—

(1) $270,000,000 for fiscal year 1996;

(2) $283,500,000 for fiscal year 1997;

(3) $355,500,000 for fiscal year 1998;

(4) $355,500,000 for fiscal year 1999; and

(5) $355,500,000 for fiscal year 2000.

Such sums are to remain available until expended.

(c) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Secretary in furtherance of the purposes of the program. Such sums are to remain available until expended.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1861.)

PRIOR PROVISIONS

A prior section 6702, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1012, related to payments to governments, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

DEFICIT NEUTRALITY

Section 31001(c) of title III of Pub. L. 103–322 provided that: ''Any appropriation to carry out the amendment made by this subtitle [subtitle J (§§ 31001, 31002) of title III of Pub. L. 103–322, enacting this chapter] to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.''

### § 6703. Qualification for payment

(a) IN GENERAL.—The Secretary shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Secretary of the units' proposed use of assistance under this chapter. Subject to subsection (c), the assistance provided shall be used, in amounts determined by the unit, for activities under, or for activities that are substantially similar to an activity under, 1 or more of the following programs and the notice shall identify 1 or more of the following programs for each such use:

(1) The Drug Abuse Resistance Education Program under section 5122 of the Elementary and Secondary Education Act of 1965.

(2) The National Youth Sports Program under section 682 of the Community Services Block Grant Act (Public Law 97–35) as amended by section 205, Public Law 103–252.

(3) The Gang Resistance Education and Training Program under the Act entitled ''An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes'', approved November 5, 1990 (Public Law 101–509).

(4) Programs under title I of the Workforce Investment Act of 1998.

(5) Programs under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), as amended.

(6) Programs under the School to Work Opportunities Act (Public Law 103–239).

(7) Substance Abuse Treatment and Prevention programs authorized under title V or XIX of the Public Health Services Act (43 U.S.C. 201 et seq.).[1]

(8) Programs under the Head Start Act (42 U.S.C. 9831 et seq.).

(9) Programs under part A or B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(10) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(11) Programs under the National Literacy Act of 1991.

(12) Programs under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(13) The demonstration partnership programs including the community initiative targeted to minority youth under section 203[1] of the Human Services Reauthorization Act of 1994 (Public Law 103–252).

(14) The runaway and homeless youth program and the transitional living program for homeless youth under title III of the Juvenile Justice and Delinquency Prevention Act (Public Law 102–586).

(15) After-school activities for school aged children under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

(16) The community-based family resource programs under section 401[1] of the Human Services Reauthorization Act of 1994 (Public Law 103–252).

(17) The family violence programs under the Child Abuse Prevention and Treatment Act Amendments of 1984.

(18) Job training programs administered by the Department of Agriculture, the Department of Defense, or the Department of Housing and Urban Development.

(b) NOTICE TO AGENCY.—Upon receipt of notice under subsection (a) from an eligible unit of general local government, the Secretary shall notify the head of the appropriate Federal agency for each program listed in subsection (a) that is identified in the notice as a program under which an activity will be conducted with assistance under this chapter. The notification shall state that the unit has elected to use some or all of its assistance under this chapter for activities under that program. The head of a Federal agency that receives such a notification shall ensure that such use is in compliance with the laws and regulations applicable to that program, except that any requirement to provide matching funds shall not apply to that use.

(c) ALTERNATIVE USES OF FUNDS.—

(1) ALTERNATIVE USES AUTHORIZED.—In lieu of, or in addition to, use for an activity described in subsection (a) and notice for that use under subsection (a), an eligible unit of general local government may use assistance under this chapter, and shall provide notice of that use to the Secretary under subsection (a), for any other activity that is consistent with

[1] See References in Text note below.

1 or more of the purposes described in section 6701(a)(2).

(2) NOTICE DEEMED TO DESCRIBE CONSISTENT USE.—Notice by a unit of general local government that it intends to use assistance under this chapter for an activity other than an activity described in subsection (a) is deemed to describe an activity that is consistent with 1 or more of the purposes described in section 6701(a)(2) unless the Secretary provides to the unit, within 30 days after receipt of that notice of intent from the unit, written notice (including an explanation) that the use is not consistent with those purposes.

(d) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(5) all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have the authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 3145 of title 40;

(6) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary. As applicable, amounts received under this chapter shall be audited in compliance with the Single Audit Act of 1984;

(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States reasonably requires to review compliance and operations under section 6718(b);

(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b); and

(9) the government will spend the funds only for the purposes set forth in section 6701(a)(2).

(e) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

(f) SANCTIONS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary decides that a unit of general local government has not complied substantially with subsection (d) or regulations prescribed under subsection (d), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (d) and regulations prescribed under subsection (d).

(2) NOTICE.—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

(3) PAYMENT CONDITIONS.—The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (d) and regulations prescribed under subsection (d).

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1861; amended Pub. L. 104–316, title I, § 115(j), Oct. 19, 1996, 110 Stat. 3835; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(c)(3), (d)(27), (f)(19)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417, 2681–424, 2681–432; Pub. L. 107–217, § 3(h)(8), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 109–270, § 2(i), Aug. 12, 2006, 120 Stat. 748.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(1), (9), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Parts A and B of chapter 1 of title I of the Act were classified generally to parts A (§ 2711 et seq.) and B (§ 2741 et seq.) of division 1 of subchapter I of chapter 47 of Title 20, Education, prior to being omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See part A (§ 6311 et seq.) and subpart 3 (§ 6381 et seq.) of part B of subchapter I of chapter 70 of Title 20. Section 5122 of the Act was classified to section 3192 of Title 20 prior to being omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382. A new section 5122 of the Act, relating to applications for assistance under educational reform programs, was added by Pub. L. 107–110 and is classified to section 7213a of Title 20.

Section 682 of the Community Services Block Grant Act, referred to in subsec. (a)(2), which was classified to section 9910c of Title 42, The Public Health and Welfare, was omitted in the general amendment of chapter 106 of Title 42, by Pub. L. 105–285, title II, § 201, Oct. 27, 1998, 112 Stat. 2728. A new section 682 of the Act, containing similar subject matter, is classified to section 9923 of Title 42.

Public Law 101–509, referred to in subsec. (a)(3), is Pub. L. 101–509, Nov. 5, 1990, 104 Stat. 1389. For complete classification of this Act to the Code, see Tables.

The Workforce Investment Act of 1998, referred to in subsec. (a)(4), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a)(5), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle C of title I of the Act is classified generally to division C (§12571 et seq.) of subchapter I of chapter 129 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 12501 of Title 42 and Tables.

The School to Work Opportunities Act, referred to in subsec. (a)(6), probably means the School-to-Work Opportunities Act of 1994, Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to chapter 69 (§6101 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 20 and Tables.

The Public Health Services Act, referred to in subsec. (a)(7), probably means the Public Health Service Act, act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Titles V and XIX of the Act are classified generally to subchapters III–A (§290aa et seq.) and XVII (§300w et seq.) of chapter 6A 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 201 of Title 42 and Tables.

The Head Start Act, referred to in subsec. (a)(8), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(10), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Part A of title IV of the Act is classified generally to part A (§1070 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The National Literacy Act of 1991, referred to in subsec. (a)(11), is Pub. L. 102–73, July 25, 1991, 105 Stat. 333, which was repealed by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(12), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

Sections 203 and 401 of the Human Services Reauthorization Act of 1994 (Public Law 103–252), referred to in subsec. (a)(13), (16), probably mean sections 203 and 401 of the Human Services Amendments of 1994, Pub. L. 103–252, May 18, 1994, 108 Stat. 654, 666. Section 203 of Pub. L. 103–252 amended section 9910 of Title 42, The Public Health and Welfare. Section 401 of Pub. L. 103–252 generally amended subchapter III (§5116 et seq.) of chapter 67 of Title 42 and repealed sections 5106a–1 and 12339 of Title 42.

The Juvenile Justice and Delinquency Prevention Act, referred to in subsec. (a)(14), probably means the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended. Title III of the Act is classified generally to subchapter III (§5701 et seq.) of chapter 72 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 5601 of Title 42 and Tables.

The Child Care and Development Block Grant Act, referred to in subsec. (a)(15), probably means the Child Care and Development Block Grant Act of 1990, subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, which is classified generally to subchapter II–B (§9858 et seq.) of chapter 105 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 9801 of Title 42 and Tables.

The Child Abuse Prevention and Treatment Act Amendments of 1984, referred to in subsec. (a)(17), probably means the Child Abuse Amendments of 1984, Pub. L. 98–457, Oct. 9, 1984, 98 Stat. 1749, as amended. Title III of the Act, relating to family violence programs, is classified generally to chapter 110 (§10401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 5101 of Title 42 and Tables.

Reorganization Plan No. 14 of 1950, referred to in subsec. (d)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

The Single Audit Act of 1984, referred to in subsec. (d)(6), is Pub. L. 98–502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§7501 et seq.) of this title and provisions set out as notes under section 7501 of this title. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of this title and Tables.

PRIOR PROVISIONS

A prior section 6703, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1012; Pub. L. 98–185, §3, Nov. 30, 1983, 97 Stat. 1309, related to State and Local Government Fiscal Assistance Trust Fund, prior to repeal by Pub. L. 99–272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

AMENDMENTS

2006—Subsec. (a)(12). Pub. L. 109–270 which directed the substitution of ''Carl D. Perkins Career and Technical Education Act of 2006'' for ''Carl D. Perkins Vocational and Applied Technology Education Act'', was executed by making the substitution for ''Carl Perkins Vocational Educational and Applied Technology Education Act'' to reflect the probable intent of Congress.

2002—Subsec. (d)(5). Pub. L. 107–217 substituted ''sections 3141–3144, 3146, and 3147 of title 40'' for ''the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5)'' and ''section 3145 of title 40'' for ''section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act), as amended (40 U.S.C. 276c, 48 Stat. 948)''.

1998—Subsec. (a)(4). Pub. L. 105–277, §101(f) [title VIII, §405(f)(19)], added par. (4) and struck out former par. (4) which read as follows: ''Programs under title II or IV of the Job Training Partnership Act or under title I of the Workforce Investment Act of 1998.''

Pub. L. 105–277, §101(f) [title VIII, §405(d)(27)], added par. (4) and struck out former par. (4) which read as follows: ''Programs under title II or IV of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).''

Subsec. (a)(15) to (19). Pub. L. 105–277, §101(f) [title VIII, §405(c)(3)], redesignated pars. (16) to (19) as (15) to (18), respectively, and struck out former par. (15) which read as follows: ''The family support program under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.).''

1996—Subsec. (d)(6). Pub. L. 104–316 struck out ''after consultation with the Comptroller General of the United States'' after ''by the Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(c)(3), (d)(27)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(19)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f)

[title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

### § 6704. State area allocations; allocations and payments to territorial governments

(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

(b) GENERAL FORMULA.—

(1) IN GENERAL.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,300,000,000 as—

(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)), multiplied by the relative rate of the labor force unemployed in the State (determined under paragraph (4)); bears to

(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

(2) GENERAL TAX EFFORT FACTOR.—The general tax effort factor of a State for a payment period is—

(A) the net amount of State and local taxes of the State collected during the year 1991 as reported by the Bureau of the Census in the publication Government Finances 1990–1991; divided by

(B) the total income of individuals, as determined by the Secretary of Commerce for national accounts purposes for 1992 as reported in the publication Survey of Current Business (August 1993), attributed to the State for the same year.

(3) RELATIVE INCOME FACTOR.—The relative income factor of a State is a fraction in which—

(A) the numerator is the per capita income of the United States; and

(B) the denominator is the per capita income of the State.

(4) RELATIVE RATE OF LABOR FORCE.—The relative rate of the labor force unemployed in a State is a fraction in which—

(A) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

(B) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes).

(c) ALTERNATIVE FORMULA.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the total amount the State would receive if—

(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the population of the State bears to the population of all States;

(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

(A) the population of the State, multiplied by a fraction in which—

(i) the numerator is the per capita income of all States; and

(ii) the denominator is the per capita income of the State; bears to

(B) the sum of the products determined under subparagraph (A) for all States;

(3) $600,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the income tax amount of the State (determined under subsection (d)(1)) bears to the sum of the income tax amounts of all States;

(4) $600,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the general tax effort amount of the State (determined under subsection (d)(2)) bears to the sum of the general tax effort amounts of all States;

(5) $600,000,000 were allocated among the States on the basis of unemployment by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

(A) the labor force of the State, multiplied by a fraction in which—

(i) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

(ii) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes)

bears to

(B) the sum of the products determined under subparagraph (A) for all States; and

(6) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the urbanized population of the State bears to the urbanized population of all States. In this paragraph, the term ''urbanized population'' means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area as published by the Bureau of the Census for 1990 in the publication General Population Characteristics for Urbanized Areas.

(d) INCOME TAX AMOUNT AND TAX EFFORT AMOUNT.—

(1) INCOME TAX AMOUNT.—The income tax amount of a State for a payment period is 15 percent of the net amount collected during the calendar year ending before the beginning of the payment period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 164(a)(3)). The income tax amount for a payment period shall be at least 1 percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable year ending during the last calendar year ending before the beginning of the payment period. The Secretary shall determine the Government income tax liability attributed to the State by using the data published by the Secretary for 1991 in the publication Statistics of Income Bulletin (Winter 1993–1994).

(2) GENERAL TAX EFFORT AMOUNT.—The general tax effort amount of a State for a payment period is the amount determined by multiplying—

(A) the net amount of State and local taxes of the State collected during the year 1991 as reported in the Bureau of[1] Census in the publication Government Finances 1990–1991; and

(B) the general tax effort factor of the State determined under subsection (b)(2).

(e) ALLOCATION FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.—

(1) IN GENERAL.—(A) For each payment period for which funds are available for allocation under this chapter, the Secretary shall allocate to each territorial government an amount equal to the product of 1 percent of the amount of funds available for allocation multiplied by the applicable territorial percentage.

(B) For the purposes of this paragraph, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

(2) PAYMENTS TO LOCAL GOVERNMENTS.—The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this subsection as they consider appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term ''territorial government'' means the government of a territory;

(B) the term ''territory'' means Puerto Rico, Guam, American Samoa, and the Virgin Islands; and

(C) the term ''territorial population'' means the most recent population for each territory as determined by the Bureau of[1] Census.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1864.)

PRIOR PROVISIONS

A prior section 6704, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1013; Pub. L. 98–185, § 9(b), Nov. 30, 1983, 97 Stat. 1311, related to qualifications of State or local governments for payments under this chapter, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

## § 6705. Local government allocations

(a) INDIAN TRIBES AND ALASKAN NATIVES VILLAGES.—If there is in a State an Indian tribe or Alaskan native[1] village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the tribe or village bears to the population of the State. The Secretary shall allocate amounts under this subsection to Indian tribes and Alaskan native[1] villages in a State before allocating amounts to units of general local government in the State under subsection (c). For the payment period beginning October 1, 1994, the Secretary shall use as the population of each Indian tribe or Alaskan native[1] village the population for 1991 as reported by the Bureau of Indian Affairs in the publication Indian Service Population and Labor Force Estimates (January 1991). In addition to uses authorized under section 6701(a)(2), amounts allocated under this subsection and paid to an Indian tribe or Alaskan native[1] village under this chapter may be used for renovating or building prisons or other correctional facilities.

(b) NEWLY INCORPORATED LOCAL GOVERNMENTS AND ANNEXED GOVERNMENTS.—If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall allocate to this newly incorporated local government, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the

[1] So in original. Probably should be ''of the''.

[1] So in original. Probably should be capitalized.

Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

(c) OTHER LOCAL GOVERNMENT ALLOCATIONS.—

(1) IN GENERAL.—The Secretary shall allocate among the units of general local government in a State (other than units receiving allocations under subsection (a)) the amount allocated to the State under section 6704 (as that amount is reduced by allocations under subsection (a)). Of the amount to be allocated, the Secretary shall allocate a portion equal to ½ of such amount in accordance with section 6706(1), and shall allocate a portion equal to ½ of such amount in accordance with section 6706(2). A unit of general local government shall receive an amount equal to the sum of amounts allocated to the unit from each portion.

(2) RATIO.—From each portion to be allocated to units of local government in a State under paragraph (1), the Secretary shall allocate to a unit an amount bearing the same ratio to the funds to be allocated as—

(A) the population of the unit, multiplied by the general tax effort factor of the unit (determined under paragraph (3)), multiplied by the income gap of the unit (determined under paragraph (4)), bears to

(B) the sum of the products determined under subparagraph (A) for all units in the State for which the income gap for that portion under paragraph (4) is greater than zero.

(3) GENERAL TAX EFFORT FACTOR.—(A) Except as provided in subparagraph (C), the general tax effort factor of a unit of general local government for a payment period is—

(i) the adjusted taxes of the unit; divided by

(ii) the total income attributed to the unit.

(B) If the amount determined under subparagraphs (A)(i) and (ii) for a unit of general local government is less than zero, the general tax effort factor of the unit is deemed to be zero.

(C)(i) Except as otherwise provided in this subparagraph, for the payment period beginning October 1, 1994, the adjusted taxes of a unit of general local government are the taxes imposed by the unit for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as determined by the Bureau of the Census for the 1987 Census of Governments and adjusted as follows:

(I) Adjusted taxes equals total taxes times a fraction in which the numerator is the sum of unrestricted revenues and revenues dedicated for spending on education minus total education spending and the denominator is total unrestricted revenues.

(II) Total taxes is the sum of property tax; general sales tax; alcoholic beverage tax; amusement tax; insurance premium tax; motor fuels tax; parimutuels tax; public utilities tax; tobacco tax; other selective sales tax; alcoholic beverage licenses, amusement licenses; corporation licenses, hunting and fishing licenses; motor vehicle licenses; motor vehicle operator licenses; public utility licenses; occupation and business licenses, not elsewhere classified; other licenses, individual income tax; corporation net income tax; death and gift tax; documentary and stock transfer tax; severance tax; and taxes not elsewhere classified.

(III) Unrestricted revenues is the sum of total taxes and intergovernmental revenue from Federal Government, general revenue sharing; intergovernmental revenue from Federal Government, other general support; intergovernmental revenue from Federal Government, other; intergovernmental revenue from State government, other general support; intergovernmental revenue from State government, other; intergovernmental revenue from local governments, other general support; intergovernmental revenue from local governments, other; miscellaneous general revenue, property sale-housing and community development; miscellaneous general revenue, property sale-other property; miscellaneous general revenue, interest earnings on investments; miscellaneous general revenue, fines and forfeits; miscellaneous general revenue, rents; miscellaneous general revenues, royalties; miscellaneous general revenue, donations from private sources; miscellaneous general revenue, net lottery revenue (after prizes and administrative expenses); miscellaneous general revenue, other miscellaneous general revenue; and all other general charges, not elsewhere classified.

(IV) Revenues dedicated for spending on education is the sum of elementary and secondary education, school lunch; elementary and secondary education, tuition; elementary and secondary education, other; higher education, auxiliary enterprises; higher education, other; other education, not elsewhere classified; intergovernmental revenue from Federal Government, education; intergovernmental revenue from State government, education; intergovernmental revenue from local governments, interschool system revenue; intergovernmental revenue from local governments, education; interest earnings, higher education; interest earnings, elementary and secondary education; miscellaneous revenues, higher education; and miscellaneous revenues, elementary and secondary education.

(V) Total education spending is the sum of elementary and secondary education, current operations; elementary and secondary education, construction; elementary and secondary education, other capital outlays; elementary and secondary education, to State governments; elementary and secondary education, to local governments, not elsewhere classified; elementary and secondary education, to counties; elementary and secondary education, to municipalities; elementary and secondary education, to townships; elementary and secondary education, to school districts; elementary and second-

ary education, to special districts; higher education-auxiliary enterprises, current operations; higher education-auxiliary enterprises, construction; higher education, auxiliary enterprises, other capital outlays; other higher education, current operations; other higher education, construction; other higher education, other capital outlays; other higher education, to State government; other higher education, to local governments, not elsewhere classified; other higher education, to counties; other higher education, to municipalities; other higher education, to townships; other higher education, to school districts; other higher education, to special districts; education assistance and subsidies; education, not elsewhere classified, current operations; education, not elsewhere classified, construction[2] education, not elsewhere classified, other capital outlays; education, not elsewhere classified, to State government; education, not elsewhere classified, to local governments, not elsewhere classified; education, not elsewhere classified, to counties; education, not elsewhere classified, to municipalities; education, not elsewhere classified, to townships; education, not elsewhere classified, to school districts; education, not elsewhere classified, to special districts; and education, not elsewhere classified, to Federal Government.

(VI) If the amount of adjusted taxes is less than zero, the amount of adjusted tax shall be deemed to be zero.

(VII) If the amount of adjusted taxes exceeds the amount of total taxes, the amount of adjusted taxes is deemed to equal the amount of total taxes.

(ii) The Secretary shall, for purposes of clause (i), include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in the geographic area of which is located the unit of general local government as taxes imposed by the unit for public purposes if—

(I) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

(II) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this clause.

(iii) The adjusted taxes of a unit of general local government shall not exceed the maximum allowable adjusted taxes for that unit.

(iv) The maximum allowable adjusted taxes for a unit of general local government is the allowable adjusted taxes of the unit minus the excess adjusted taxes of the unit.

(v) The allowable adjusted taxes of a unit of general government is the greater of—

(I) the amount equal to 2.5, multiplied by the per capita adjusted taxes of all units of general local government of the same type in the State, multiplied by the population of the unit; or

(II) the amount equal to the population of the unit, multiplied by the sum of the adjusted taxes of all units of municipal local government in the State, divided by the sum of the populations of all the units of municipal local government in the State.

(vi) The excess adjusted taxes of a unit of general local government is the amount equal to—

(I) the adjusted taxes of the unit, minus

(II) 1.5 multiplied by the allowable adjusted taxes of the unit;

except that if this amount is less than zero then the excess adjusted taxes of the unit is deemed to be zero.

(vii) For purposes of this subparagraph—

(I) the term ''per capita adjusted taxes of all units of general local government of the same type'' means the sum of the adjusted taxes of all units of general local government of the same type divided by the sum of the populations of all units of general local government of the same type; and

(II) the term ''units of general local government of the same type'' means all townships if the unit of general local government is a township, all municipalities if the unit of general local government is a municipality, all counties if the unit of general local government is a county, or all unified city/county governments if the unit of general local government is a unified city/county government.

(4) INCOME GAP.—(A) Except as provided in subparagraph (B), the income gap of a unit of general local government is—

(i) the number which applies under section 6706, multiplied by the per capita income of the State in which the unit is located; minus

(ii) the per capita income of the geographic area of the unit.

(B) If the amount determined under subparagraph (A) for a unit of general local government is less than zero, then the relative income factor of the unit is deemed to be zero.

(d) SMALL GOVERNMENT ALLOCATIONS.—If the Secretary decides that information available for a unit of general local government with a population below a number (of not more than 500) prescribed by the Secretary is inadequate, the Secretary may allocate to the unit, in lieu of any allocation under subsection (b) for a payment period, an amount bearing the same ratio to the total amount to be allocated under subsection (b) for the period for all units of general local government in the State as the population of the unit bears to the population of all units in the State.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1867.)

PRIOR PROVISIONS

A prior section 6705, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1014, related to State government allocations, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

[2] So in original. Probably should be followed by a semicolon.

### § 6706. Income gap multiplier

For purposes of determining the income gap of a unit of general local government under section 6705(b)(4)(A),[1] the number which applies is—

(1) 1.6, with respect to ½ of any amount allocated under section 6704 to the State in which the unit is located; and

(2) 1.2, with respect to the remainder of such amount.

(Added Pub. L. 103–322, title III, § 301001(a), Sept. 13, 1994, 108 stat. 1871.)

PRIOR PROVISIONS

A prior section 6706, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1014, related to reductions in State government allocations, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6707. State variation of local government allocations

(a) STATE FORMULA.—A State government may provide by law for the allocation of amounts among units of general local government in the State on the basis of population multiplied by the general tax effort factors or income gaps of the units of general local government determined under sections 6705(a) and (b)[1] or a combination of those factors. A State government providing for a variation of an allocation formula provided under sections 6705(a) and (b)[1] shall notify the Secretary of the variation by the 30th day before the beginning of the first payment period in which the variation applies. A variation shall—

(1) provide for allocating the total amount allocated under sections 6705(a) and (b);[1] and

(2) apply uniformly in the State.

(b) CERTIFICATION.—A variation by a State government under this section may apply only if the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only if the Secretary is notified of the variation at least 30 days before the first payment period in which the variation applies.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1872.)

PRIOR PROVISIONS

A prior section 6707, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1016; Pub. L. 98–185, § 9(c), Nov. 30, 1983, 97 Stat. 1312, related to State allocations for units of general local government, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6708. Adjustments of local government allocations

(a) MAXIMUM AMOUNT.—The amount allocated to a unit of general local government for a payment period may not exceed the adjusted taxes imposed by the unit of general local government as determined under section 6705(b)(3).[1] Amounts in excess of adjusted taxes shall be paid to the Governor of the State in which the unit of local government is located.

(b) DE MINIMIS ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT.—If the amount allocated to a unit of general local government (except an Indian tribe or an Alaskan native[2] village) for a payment period would be less than $5,000 but for this subsection or is waived by the governing authority of the unit of general local government, the Secretary shall pay the amount to the Governor of the State in which the unit is located.

(c) USE OF PAYMENTS TO STATES.—The Governor of a State shall use all amounts paid to the Governor under subsections (a) and (b) for programs described in section 6701(a)(2) in areas of the State where are located the units of general local government with respect to which amounts are paid under subsection (b).

(d) DE MINIMIS ALLOCATIONS TO INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—

(1) AGGREGATION OF DE MINIMIS ALLOCATIONS.—If the amount allocated to an Indian tribe or an Alaskan native[2] village for a payment period would be less than $5,000 but for this subsection or is waived by the chief elected official of the tribe or village, the amount—

(A) shall not be paid to the tribe or village (except under paragraph (2)); and

(B) shall be aggregated with other such amounts and available for use by the Attorney General under paragraph (2).

(2) USE OF AGGREGATED AMOUNTS.—Amounts aggregated under paragraph (1) for a payment period shall be available for use by the Attorney General to make grants in the payment period on a competitive basis to Indian Tribes[3] and Alaskan native[2] village[4] for—

(A) programs described in section 6701(a)(2); or

(B) renovating or building prisons or other correctional facilities.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1872.)

PRIOR PROVISIONS

A prior section 6708, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1017, related to county area and county government allocations, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6709. Information used in allocation formulas

(a) POPULATION DATA FOR PAYMENT PERIOD BEGINNING OCTOBER 1, 1994.—For the payment period beginning October 1, 1994, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use for the population of the States the population for 1992 as reported by the Bureau of the Census in the publication Current Population Reports, Series P–25, No. 1045 (July 1992) and for the population of units of general local government the Secretary shall use the population for 1990 as reported by the Bureau of the Census in the publication Summary Social, Economic, and Housing Characteristics.

(b) DATA FOR PAYMENT PERIODS BEGINNING AFTER SEPTEMBER 30, 1995.—For any payment period beginning after September 30, 1995, the

[1] So in original. Probably should be section "6705(c)(4)(A),".

[1] So in original. Probably should be "section 6705(a) and (c)".

[1] So in original. Probably should be section "6705(c)(3)."

[2] So in original. Probably should be capitalized.

[3] So in original. Probably should not be capitalized.

[4] So in original. Probably should be "villages".

Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use information more recent than the information used for the payment period beginning October 1, 1994, provided the Secretary notifies the Committee on Government Operations of the House of Representatives at least 90 days prior to the beginning of the payment period that the Secretary has determined that the more recent information is more reliable than the information used for the payment period beginning October 1, 1994.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1873.)

PRIOR PROVISIONS

A prior section 6709, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1018; Pub. L. 97–452, § 1(25), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98–185, § 9(d), Nov. 30, 1983, 97 Stat. 1312, related to other local government allocations, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

CHANGE OF NAME

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.

### § 6710. Public participation

(a) HEARINGS.—

(1) IN GENERAL.—A unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

(2) SENIOR CITIZENS.—A unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

(b) DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—By the 10th day before a hearing required under subsection (a)(1) is held, a unit of general local government shall—

(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

(2) AVAILABILITY.—By the 30th day after adoption of the budget under State or local law, the government shall—

(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

(B) publish in at least one newspaper of general circulation a notice that the information referred to in subparagraph (A) is available for inspection.

(c) WAIVERS OF REQUIREMENTS.—A requirement—

(1) under subsection (a)(1) may be waived if the budget process required under the applicable State or local law or charter provisions—

(A) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

(2) under subsection (b)(1)(B) and paragraph (2)(B) may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government from amounts available for payment under this chapter, or if publication is otherwise impracticable.

(d) EXCEPTION TO 10-DAY LIMITATION.—If the Secretary is satisfied that a unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) may be changed to the extent necessary to comply with applicable State or local law.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1873.)

PRIOR PROVISIONS

A prior section 6710, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1020, related to separate law enforcement officer allocations for Louisiana, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6711. Prohibited discrimination

(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a unit of general local government if the government receives a payment under this chapter:

(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply if the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1874.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsec. (b)(1), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 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 6101 of Title 42 and Tables.

Section 504 of the Rehabilitation Act of 1973, referred to in subsec. (b)(2), is classified to section 794 of Title 29, Labor.

The Civil Rights Act of 1964, referred to in subsec. (b)(3), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended, which is classified principally to subchapters II to IX (§ 2000a et seq.) of chapter 21 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 2000a of Title 42 and Tables.

Title VIII of the Act of April 11, 1968, referred to in subsec. (b)(3), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, known as the Fair Housing Act, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6711, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1021; Pub. L. 98–185, § 4, Nov. 30, 1983, 97 Stat. 1309, related to State variation of local government allocations, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6712. Discrimination proceedings

(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

(b) INFORMAL PRESENTATION OF EVIDENCE.—A unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

(2) the program or activity of the government violated a prohibition described in section 6711(b); and

(3) any part of that program or activity has been paid for with a payment received under this chapter.

(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with section 6711(a) or (b), unless the government has entered into a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

(1) enters into a compliance agreement under section 6714; or

(2) requests a proceeding under subsection (d)(1).

(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

(1) PROCEEDING.—A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711(a) or (b).

(2) DECISION.—If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

(A) not complied with section 6711(a) or (b), the judge may order payments to the government under this chapter terminated; or

(B) complied with section 6711(a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

(3) LIKELIHOOD OF PREVAILING.—An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government

about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1875.)

PRIOR PROVISIONS

A prior section 6712, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1021, related to adjustments of local government allocations, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6713. Suspension and termination of payments in discrimination proceedings

(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

(1) IN GENERAL.—The Secretary shall suspend payment under this chapter to a unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711(a) and (b);

(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711(a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

(C) if required under section 6712(c).

(2) EFFECTIVENESS.—A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

(1) as of the time of, and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections[1] 6711(a) and (b); or

(4) if a suspension is discontinued under subsection (b).

(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711(a) or (b).

(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1876.)

PRIOR PROVISIONS

A prior section 6713, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1022; Pub. L. 98–185, §§ 5, 9(e), Nov. 30, 1983, 97 Stat. 1309, 1312, related to information used in allocation formulas, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6714. Compliance agreements

(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711(a) or (b); or

(2) between the Secretary and the chief executive officer.

(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections[1] 6711(a) and (b);

(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711(a) or (b); and

(3) may be a series of agreements that dispose of those matters.

(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711(a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1877.)

PRIOR PROVISIONS

A prior section 6714, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1023; Pub. L. 98–185, § 6, Nov. 30, 1983, 97 Stat. 1310,

[1] So in original. Probably should be "section".

[1] So in original. Probably should be "section".

related to public hearings, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6715. Enforcement by the Attorney General of prohibitions on discrimination

The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711(a) or (b). The court may grant—

(1) a temporary restraining order;

(2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 6711(a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1877.)

PRIOR PROVISIONS

A prior section 6715, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1024, related to prohibition on using payments to influence legislation, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6716. Civil action by a person adversely affected

(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this chapter; or

(2) does not issue a decision on the complaint.

(c) AUTHORITY OF COURT.—In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

(2) to enforce compliance with section 6711(a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 6711(a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1878.)

PRIOR PROVISIONS

A prior section 6716, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1024; Pub. L. 98–185, § 9(f), (g), Nov. 30, 1983, 97 Stat. 1312; Pub. L. 98–216, § 1(8), Feb. 14, 1984, 98 Stat. 4, related to prohibition of discrimination, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6717. Judicial review

(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(f), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) COURT ACTION.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) REVIEW ONLY BY SUPREME COURT.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1878.)

PRIOR PROVISIONS

A prior section 6717, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1025; Pub. L. 98–185, §§ 7, 9(h), Nov. 30, 1983, 97 Stat. 1310, 1312, related to discrimination proceedings, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6718. Investigations and reviews

(a) INVESTIGATIONS BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall within a reasonable time limit—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711(a) or (b) or other provision of this chapter.

(2) TIME LIMIT.—The maximum time limit under paragraph (1)(A) is 120 days.

(b) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General of the United States may carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter. These reviews may include a comparison of the waste and inefficiency of local governments using funds under this chapter compared to waste and inefficiency with other comparable Federal programs.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1879; amended Pub. L. 104–316, title I, § 115(k), Oct. 19, 1996, 110 Stat. 3835.)

PRIOR PROVISIONS

A prior section 6718, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1026; Pub. L. 98–185, § 9(i), Nov. 30, 1983, 97 Stat. 1312, related to suspension and termination of payments in discrimination proceedings, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–316 substituted ''may'' for ''shall'' before ''carry'' and ''include''.

### § 6719. Reports

(a) REPORTS BY SECRETARY TO CONGRESS.—Before June 2 of each year prior to 2002, the Secretary personally shall report to the Congress on—

(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

(2) the administration of this chapter, including a complete and detailed analysis of—

(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which units of general local government receiving payments under this chapter have complied with the requirements of this chapter;

(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

(b) REPORTS BY UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—

(1) IN GENERAL.—At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) AVAILABILITY OF REPORT.—The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1879.)

PRIOR PROVISIONS

A prior section 6719, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1027, related to compliance agreements, prior to repeal by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

### § 6720. Definitions, application, and administration

(a) DEFINITIONS.—In this chapter—

(1) ''unit of general local government'' means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

(2) ''payment period'' means each 1-year period beginning on October 1 of the years 1994 through 2000;

(3) ''State and local taxes'' means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

(4) ''State'' means any of the several States and the District of Columbia;

(5) ''income'' means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes, which for units of general local government is reported by the Bureau of the Census for 1990 in the publication Summary Social, Economic, and Housing Characteristics;

(6) ''per capita income'' means—

(A) in the case of the United States, the income of the United States divided by the population of the United States;

(B) in the case of a State, the income of that State, divided by the population of that State; and

(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

(7) ''finding of discrimination'' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711(a) or (b);

(8) ''holding of discrimination'' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

(B) violated a prohibition against discrimination described in section 6711(b); and

(9) ''Secretary'' means the Secretary of Housing and Urban Development.

(b) DELEGATION OF ADMINISTRATION.—The Secretary may enter into agreements with other executive branch departments and agencies to delegate to that department or agency all or part of the Secretary's responsibility for administering this chapter.

(c) TREATMENT OF SUBSUMED AREAS.—If the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. If only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

(d) BOUNDARY AND OTHER CHANGES.—If a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.

(Added Pub. L. 103–322, title III, § 31001(a), Sept. 13, 1994, 108 Stat. 1880.)

PRIOR PROVISIONS

Prior sections 6720 to 6724 were repealed by Pub. L. 99–272, title XIV, § 14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

Section 6720, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1027, related to enforcement by Attorney General of prohibitions on discrimination.

Section 6721, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1028, related to civil action by person adversely affected.

Section 6722, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1028, related to judicial review.

Section 6723, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1029; Pub. L. 98–185, § 8, Nov. 30, 1983, 97 Stat. 1310, related to audits, investigations, and reviews.

Section 6724, Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1030, related to reports to Congress.

## CHAPTER 69—PAYMENT FOR ENTITLEMENT LAND

Sec.
6901. Definitions.
6902. Authority and eligibility.
6903. Payments.
6904. Additional payments.
6905. Redwood National Park and the Lake Tahoe Basin.
6906. Funding.
6907. State legislation requiring reallocation or redistribution of payments to smaller units of general purpose government.

AMENDMENTS

2008—Pub. L. 110–343, div. C, title VI, § 601(c)(2), Oct. 3, 2008, 122 Stat. 3911, added item 6906 and struck out former item 6906 ''Authorization of appropriations''.

1994—Pub. L. 103–272, § 4(f)(1)(U)(i), July 5, 1994, 108 Stat. 1362, added item 6907.

### § 6901. Definitions

In this chapter—

(1) ''entitlement land'' means land owned by the United States Government—

(A) that is in the National Park System or the National Forest System, including wilderness areas and lands described in section 2 of the Act of June 22, 1948 (16 U.S.C. 577d), and section 1 of the Act of June 22, 1956 (16 U.S.C. 577d–1);

(B) the Secretary of the Interior administers through the Bureau of Land Management;

(C) dedicated to the use of the Government for water resource development projects;

(D) on which are located semi-active or inactive installations (except industrial installations) that the Secretary of the Army keeps for mobilization and for reserve component training;

(E) that is a dredge disposal area under the jurisdiction of the Secretary of the Army;

(F) that is located in the vicinity of Purgatory River Canyon and Pinon Canyon, Colorado, and acquired after December 23, 1981, by the United States Government to expand the Fort Carson military installation;

(G) that is a reserve area (as defined in section 401(g)(3) of the Act of June 15, 1935 (16 U.S.C. 715s(g)(3))); or

(H) acquired by the Secretary of the Interior or the Secretary of Agriculture under section 5 of the Southern Nevada Public Land Management Act of 1998 that is not

otherwise described in subparagraphs (A) through (G).

(2)(A) ''unit of general local government'' means—

(i) a county (or parish), township, borough, or city (other than in Alaska) where the city is independent of any other unit of general local government, that—

(I) is within the class or classes of such political subdivision in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and

(II) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes;

(ii) any area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a governmental entity described under clause (i);

(iii) the District of Columbia;

(iv) the Commonwealth of Puerto Rico;

(v) Guam; and

(vi) the Virgin Islands.

(B) the term ''governmental services'' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1031; Pub. L. 98–63, title I, § 101(1), July 30, 1983, 97 Stat. 323; Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1775; Pub. L. 103–272, § 4(f)(3), July 5, 1994, 108 Stat. 1364; Pub. L. 104–333, div. I, title X, § 1033(a), Nov. 12, 1996, 110 Stat. 4239; Pub. L. 105–83, title III, § 350, Nov. 14, 1997, 111 Stat. 1607; Pub. L. 105–263, § 5(d), Oct. 19, 1998, 112 Stat. 2348.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6901(1) (A)–(F). | 31:1606(a)(1)–(3), (5), (b). | Oct. 20, 1976, Pub. L. 94–565, § 6(a)(1)–(3), (5), (b), (c), 90 Stat. 2665; Dec. 23, 1981, Pub. L. 97–99, § 912(a)(2), 95 Stat. 1387. |
| | 31:1606(a)(4). | Oct. 20, 1976, Pub. L. 94–565, § 6(a)(4), 90 Stat. 2665; restated Oct. 17, 1978, Pub. L. 95–469, § 3(1), 92 Stat. 1321; Dec. 23, 1981, Pub. L. 97–99, § 912(a)(1), 95 Stat. 1387. |
| | 31:1606(a)(6). | Oct. 20, 1976, Pub. L. 94–565, 90 Stat. 2662, § 6(a)(6); added Dec. 23, 1981, Pub. L. 97–99, § 912(a)(3), 95 Stat. 1387. |
| 6901(1)(G) | 16:715s(h)(1). | June 15, 1935, ch. 261, 49 Stat. 378, § 401(h)(1); added Oct. 17, 1978, Pub. L. 95–469, § 1(a)(4), 92 Stat. 1321. |
| 6901(2) ..... | 31:1606(c). | |

In clause (1), before subclause (A), the text of 31:1606(b) is omitted as unnecessary because of the restatement of the source provisions. In subclause (A), the word ''and'' is substituted for ''within each, or any combination thereof'' to eliminate unnecessary words. The words ''but not limited to'' are omitted as surplus. In subclause (D), the words ''effective October 1, 1978'' are omitted as executed. The words ''Secretary of the Army'' are substituted for ''Army'' for consistency. In subclause (E), the words ''owned by the United States'' are omitted as surplus. The words ''Secretary of the Army'' are substituted for ''Army Corps of Engineers'' because of 10:3012. In subclause (F), the word ''Government'' is added for clarity. In subclause (G), the words ''In administering sections 1601 to 1607 of title 31'' are omitted as unnecessary. The words ''for fiscal years occurring after September 30, 1978'' are omitted as executed. Subclause (G) is substituted for 16:715s(h)(1) because of the restatement.

In clause (2), before subclause (A), the word ''general'' is added for consistency in the title. In subclause (A), the word ''parish'' is omitted as unnecessary because of 1:2. The word ''city'' is substituted for ''municipality'' for consistency in the subtitle. The words ''State of'' are omitted as surplus. The words ''political subdivision of a State'' are substituted for ''unit of government below the State'' for consistency. The words ''the basis of'' are omitted as surplus. The word ''basis'' is substituted for ''principle'' for consistency in the subtitle. The words ''Secretary of Commerce'' are substituted for ''Bureau of the Census'', and the words ''general purpose political subdivision of a State'' are substituted for ''unit of general government'', for consistency. In subclause (B), the words ''Such term also includes'' are omitted as unnecessary. Subclause (D) is added because of section 502 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

REFERENCES IN TEXT

Section 5 of the Southern Nevada Public Land Management Act of 1998, referred to in par. (1)(H), is section 5 of Pub. L. 105–263, Oct. 19, 1998, 112 Stat. 2347, subsec. (d) of which amended this section. Subsecs. (a) to (c) of section 5, which related to acquisition of certain environmentally sensitive land, are not classified to the Code.

AMENDMENTS

1998—Par. (1)(H). Pub. L. 105–263 added subpar. (H).

1997—Par. (2)(A)(i). Pub. L. 105–83 inserted ''(other than in Alaska)'' after ''borough, or city''.

1996—Par. (2). Pub. L. 104–333 amended par. (2) generally. Prior to amendment, par. (2) read as follows: '' 'unit of general local government' means:

''(A) a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that: (i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and (ii) is a unit of general government as determined by the Secretary of the Interior on the basis of the same principles as were used on January 1, 1983, by the Secretary of Commerce for general statistical purposes. The term 'governmental services' includes, but is not limited to, those services that relate to public safety, environment, housing, social services, transportation, and governmental administration;

''(B) the District of Columbia;

''(C) the Commonwealth of Puerto Rico;

''(D) Guam; and

''(E) the Virgin Islands.''

1994—Par. (2)(A). Pub. L. 103–272 amended Pub. L. 100–446. See 1988 Amendment note below.

1988—Par. (2)(A). Pub. L. 100–446, as amended by Pub. L. 103–272, struck out ''existing in Alaska on October 20, 1976'' after ''township, borough''.

1983—Par. (2). Pub. L. 98–63 amended par. (2) generally, substituting in subpar. (A) ''a county (or parish), township, borough existing in Alaska on October 20, 1976, or city where the city is independent of any other unit of general local government, that: (i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior, in his discretion, de-

termines to be the principal provider or providers of governmental services within the State; and (ii) is a unit of general government as determined by the Secretary of the Interior on the basis of the same principles as were used on January 1, 1983, by the Secretary of Commerce for general statistical purposes. The term 'governmental services' includes, but is not limited to, those services that relate to public safety, environment, housing, social services, transportation, and governmental administration'' for ''a county, city, township, borough existing in Alaska on October 20, 1976, or other political subdivision of a State that the Secretary of the Interior, on the same basis that the Secretary of Commerce uses for general statistical purposes, decides is a general purpose political subdivision of a State''; including the District of Columbia in definition; and excluding the Commonwealth of the Northern Mariana Islands from definition.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 4(f)(3) of Pub. L. 103–272 provided that the amendment made by that section is effective Sept. 27, 1988.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–263, § 1, Oct. 19, 1998, 112 Stat. 2343, provided that: ''This Act [amending this section and section 460ccc–1 of Title 16, Conservation] may be cited as the 'Southern Nevada Public Land Management Act of 1998'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–397, § 1, Oct. 22, 1994, 108 Stat. 4156, provided that: ''This Act [amending sections 6902 and 6903 of this title and enacting provisions set out as notes under sections 6902 and 6903 of this title] may be cited as the 'Payments In Lieu of Taxes Act'.''

## § 6902. Authority and Eligibility [1]

(a)(1) Except as provided in paragraph (2), the Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

(2) For each unit of general local government described in section 6901(2)(A)(ii), the Secretary of the Interior shall make a payment for each fiscal year to the State of Alaska for entitlement land located within such unit as set forth in this chapter. The State of Alaska shall distribute such payment to home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unit of general local government for which the payment was received. Such cities may use monies received under this paragraph for any governmental purpose.

(b) A unit of general local government may not receive a payment for land for which payment under this Act [2] otherwise may be received if the land was owned or administered by a State or unit of general local government and was exempt from real estate taxes when the land was conveyed to the United States except that a unit of general local government may receive a payment for—

(1) land a State or unit of general local government acquires from a private party to donate to the United States within 8 years of acquisition;

(2) land acquired by a State through an exchange with the United States if such land was entitlement land as defined by this chapter; or

(3) land in Utah acquired by the United States for Federal land, royalties, or other assets if, at the time of such acquisition, a unit of general local government was entitled under applicable State law to receive payments in lieu of taxes from the State of Utah for such land: *Provided, however*, That no payment under this paragraph shall exceed the payment that would have been made under State law if such land had not been acquired.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1032; Pub. L. 103–93, § 10(b), Oct. 1, 1993, 107 Stat. 999; Pub. L. 103–397, § 4, Oct. 22, 1994, 108 Stat. 4157; Pub. L. 104–333, div. I, title X, § 1033(b), Nov. 12, 1996, 110 Stat. 4240.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6902(a) ..... | 31:1601. | Oct. 20, 1976, Pub. L. 94–565, §§ 1, 5(a), (b), 90 Stat. 2662, 2665. |
| 6902(b) ..... | 31:1605(c). | Oct. 20, 1976, Pub. L. 94–565, 90 Stat. 2662, § 5(c); added Oct. 17, 1978, Pub. L. 95–469, § 3(2), 92 Stat. 1321. |
| 6902(c) ..... | 31:1605(a). | |
| 6902(d) ..... | 31:1605(b). | |

In subsection (a), the words ''Effective for fiscal years beginning on and after October 1, 1976'' are omitted as executed. The words ''(as defined in section 1606 of this title)'' are omitted because of the restatement. The text of 31:1601(last sentence) is omitted as unnecessary.

In subsection (b), the word ''or'' is substituted for ''and/or'' for consistency. The words ''except that, beginning in fiscal year 1979'' are omitted as executed. The words ''of such land'' are omitted as surplus. The word ''Federal'' is omitted as unnecessary. The words ''and which is or was so donated . . . thereof by the State or unit of local government'' are omitted as surplus.

In subsection (c), the citation in parentheses for the Act of May 24, 1939, is included only for information purposes.

In subsection (d), the words ''county or'' are omitted as unnecessary because a county is a unit of general local government under section 6901 of the revised title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–333 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located, as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.''

1994—Pub. L. 103–397 amended section generally. Prior to amendment, section read as follows:

''(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located. A unit may use the payment for any governmental purpose.

''(b) A unit of general local government may not receive a payment for land for which payment under this chapter otherwise may be received if the land was owned or administered by a State or unit and was exempt from real estate taxes when the land was conveyed to the United States Government. This subsection does not apply to payments for land a State or unit acquires from a private party to donate to the Government within 8 years of acquisition, nor does this subsection apply to payments for lands in Utah ac-

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be ''this chapter''.

quired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under State law if such lands had not been acquired.

''(c) A unit of general local government receiving payment for a fiscal year for land under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), or the Act of May 24, 1939 (ch. 144, 53 Stat. 753), may not receive a payment under this chapter for the land for that fiscal year. This chapter does not apply to either Act.

''(d) If the total payment to a unit of general local government for a fiscal year would be less than $100, the Secretary may not make the payment.''

1993—Subsec. (b). Pub. L. 103–93 substituted ''acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under State law if such lands had not been acquired'' for ''acquisition''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 5(a) of Pub. L. 103–397 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), this Act [amending this section and section 6903 of this title and enacting provisions set out as notes under sections 6901 and 6903 of this title] and the amendments made by this Act shall become effective on October 1, 1994.

''(2) LIMITATION.—The amendment made by section 2(b)(2) [amending section 6903 of this title] shall become effective on October 1, 1998.''

## § 6903. Payments

(a) In this section—

(1) ''payment law'' means—

(A) the Act of June 20, 1910 (ch. 310, 36 Stat. 557);

(B) section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012);

(C) the Act of May 23, 1908 (16 U.S.C. 500) or the Secure Rural Schools and Community Self-Determination Act of 2000;

(D) section 5 of the Act of June 22, 1948 (16 U.S.C. 577g, 577g–1);

(E) section 401(c)(2) of the Act of June 15, 1935 (16 U.S.C. 715s(c)(2));

(F) section 17 of the Federal Power Act (16 U.S.C. 810);

(G) section 35 of the Act of February 25, 1920 (30 U.S.C. 191);

(H) section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355);

(I) section 3 of the Act of July 31, 1947 (30 U.S.C. 603); and

(J) section 10 of the Act of June 28, 1934 (known as the Taylor Grazing Act) (43 U.S.C. 315i).

(2) population shall be determined on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

(3) a unit of general local government may not be credited with a population of more than 50,000.

(b)(1) A payment under section 6902 of this title is equal to the greater of—

(A) 93 cents during fiscal year 1995, $1.11 during fiscal year 1996, $1.29 during fiscal year 1997, $1.47 during fiscal year 1998, and $1.65 during fiscal year 1999 and thereafter, for each acre of entitlement land located within a unit of general local government (but not more than the limitation determined under subsection (c) of this section) reduced (but not below 0) by amounts the unit received in the prior fiscal year under a payment law; or

(B) 12 cents during fiscal year 1995, 15 cents during fiscal year 1996, 17 cents during fiscal year 1997, 20 cents during fiscal year 1998, and 22 cents during fiscal year 1999 and thereafter, for each acre of entitlement land located in the unit (but not more than the limitation determined under subsection (c) of this section).

(2) The chief executive officer of a State shall submit to the Secretary of the Interior a statement on the amounts of payments the State transfers to each unit of general local government in the State out of amounts received under a payment law.

(c)(1) The limitation for a unit of general local government with a population of not more than 4,999 is the highest dollar amount specified in paragraph (2).

(2) The limitation for a unit of general local government with a population of at least 5,000 is the following amount (rounding the population off to the nearest thousand):

| If population equals— | the limitation is equal to the population times— |
|---|---|
| 5,000 | $110.00 |
| 6,000 | 103.00 |
| 7,000 | 97.00 |
| 8,000 | 90.00 |
| 9,000 | 84.00 |
| 10,000 | 77.00 |
| 11,000 | 75.00 |
| 12,000 | 73.00 |
| 13,000 | 70.00 |
| 14,000 | 68.00 |
| 15,000 | 66.00 |
| 16,000 | 65.00 |
| 17,000 | 64.00 |
| 18,000 | 63.00 |
| 19,000 | 62.00 |
| 20,000 | 61.00 |
| 21,000 | 60.00 |
| 22,000 | 59.00 |
| 23,000 | 59.00 |
| 24,000 | 58.00 |
| 25,000 | 57.00 |
| 26,000 | 56.00 |
| 27,000 | 56.00 |
| 28,000 | 56.00 |
| 29,000 | 55.00 |
| 30,000 | 55.00 |
| 31,000 | 54.00 |
| 32,000 | 54.00 |
| 33,000 | 53.00 |
| 34,000 | 53.00 |
| 35,000 | 52.00 |
| 36,000 | 52.00 |
| 37,000 | 51.00 |
| 38,000 | 51.00 |
| 39,000 | 50.00 |
| 40,000 | 50.00 |
| 41,000 | 49.00 |

| | |
|---|---|
| 42,000 | 48.00 |
| 43,000 | 48.00 |
| 44,000 | 47.00 |
| 45,000 | 47.00 |
| 46,000 | 46.00 |
| 47,000 | 46.00 |
| 48,000 | 45.00 |
| 49,000 | 45.00 |
| 50,000 | 44.00. |

(d) On October 1 of each year after the date of enactment of the Payment in Lieu of Taxes Act, the Secretary of the Interior shall adjust each dollar amount specified in subsections (b) and (c) to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, for the 12 months ending the preceding June 30.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1032; Pub. L. 98–63, title I, § 101(2), July 30, 1983, 97 Stat. 324; Pub. L. 103–397, §§ 2, 3, 5(b), Oct. 22, 1994, 108 Stat. 4156–4158; Pub. L. 106–393, § 4, Oct. 30, 2000, 114 Stat. 1610.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6903(a)(1) | 16:715s(h)(2). | June 15, 1935, ch. 261, 49 Stat. 378, § 401(h)(2); added Oct. 17, 1978, Pub. L. 95–469, § 1(a)(4), 92 Stat. 1321. |
| | 31:1604. | Oct. 20, 1976, Pub. L. 94–565, §§ 2, 4, 90 Stat. 2662, 2664. |
| 6903(a)(2) | 31:1602(c). | |
| 6903(a)(3) | 31:1602(b)(2)(last sentence). | |
| 6903(a)(4) | 31:1602(d). | |
| 6903(b)(1) | 31:1602(a)(1st sentence). | |
| 6903(b)(2) | 31:1602(a)(last sentence). | |
| 6903(c) ..... | 31:1602(b)(1), (2)(1st sentence). | |

In subsection (a)(1), before subclause (A), the word ''payment'' is added for clarity. Subclause (E) is substituted for 16:715s(h)(2) because of the restatement. In clause (2), the words ''Secretary of Commerce'' are substituted for ''Bureau of the Census'' for consistency. In clause (4), the words ''the jurisdiction of'' are omitted as surplus. The word ''deemed'' is substituted for ''treated'' for consistency.

In subsections (b) and (c), the word ''population'' before ''limitation'' is omitted as unnecessary.

In subsection (b)(1), before clause (A), the words ''The amount of . . . made for any fiscal year to a unit of local government . . . the following amounts'' are omitted as surplus. In clauses (A) and (B), the words ''the boundaries of'' are omitted as surplus. In clause (A), the words ''aggregate . . . of payments, if any'' are omitted as surplus. The words ''a payment law'' are substituted for ''all of the provisions specified in section 1604 of this title'' because of the restatement.

In subsection (b)(2), the words ''chief executive officer'' are substituted for ''Governor (or his delegate)'' for consistency in the revised title and with other titles of the United States Code. The words ''a payment law'' are substituted for ''a provision specified in section 1604 of this title'' because of the restatement of 31:1604 in subsection (a).

In subsection (c)(1), the words ''amount equal to'' and ''within the jurisdiction of such unit of local government'' are omitted as surplus.

In subsection (c)(2), the words ''computed under the . . . table'' are omitted as unnecessary. The words ''the limitation is equal to the population times'' are substituted for ''Payment shall not exceed the amount computed by multiplying such population by'' for clarity and consistency.

REFERENCES IN TEXT

Act of June 20, 1910 (ch. 310, 36 Stat. 557), referred to in subsec. (a)(1)(A), is not classified to the Code.

The Secure Rural Schools and Community Self-Determination Act of 2000, referred to in subsec. (a)(1)(C), is Pub. L. 106–393, Oct. 30, 2000, 114 Stat. 1607, which is classified principally to chapter 90 (§ 7101 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 16 and Tables.

The date of enactment of the Payment in Lieu of Taxes Act, referred to in subsec. (d), probably means the date of enactment of the Payments In Lieu of Taxes Act, Pub. L. 103–397, which was approved Oct. 22, 1994.

AMENDMENTS

2000—Subsec. (a)(1)(C). Pub. L. 106–393 inserted ''or the Secure Rural Schools and Community Self-Determination Act of 2000'' before semicolon at end.

1994—Subsec. (b)(1)(A). Pub. L. 103–397, § 2(a)(1), substituted ''93 cents during fiscal year 1995, $1.11 during fiscal year 1996, $1.29 during fiscal year 1997, $1.47 during fiscal year 1998, and $1.65 during fiscal year 1999 and thereafter, for each acre of entitlement land'' for ''75 cents for each acre of entitlement land''.

Subsec. (b)(1)(B). Pub. L. 103–397, § 2(a)(2), substituted ''12 cents during fiscal year 1995, 15 cents during fiscal year 1996, 17 cents during fiscal year 1997, 20 cents during fiscal year 1998, and 22 cents during fiscal year 1999 and thereafter, for each acre of entitlement land'' for ''10 cents for each acre of entitlement land''.

Subsec. (c)(1). Pub. L. 103–397, § 2(b)(1), substituted ''the highest dollar amount specified in paragraph (2)'' for ''$50 times the population''.

Subsec. (c)(2). Pub. L. 103–397, § 2(b)(2), amended table generally by augmenting dollar amounts by which population totals must be multiplied in order to equal the limitation from $39.25 to $98.00 under prior table to $44.00 to $110.00.

Pub. L. 103–397, § 5(b)(4), amended table generally for fiscal year 1998 by augmenting dollar amounts by which population totals must be multiplied in order to equal the limitation from $34.50 to $86.00 under prior table to $39.25 to $98.00.

Pub. L. 103–397, § 5(b)(3), amended table generally for fiscal year 1997 by augmenting dollar amounts by which population totals must be multiplied in order to equal the limitation from $29.50 to $74.00 under prior table to $34.50 to $86.00.

Pub. L. 103–397, § 5(b)(2), amended table generally for fiscal year 1996 by augmenting dollar amounts by which population totals must be multiplied in order to equal the limitation from $24.75 to $62.00 under prior table to $29.50 to $74.00.

Pub. L. 103–397, § 5(b)(1), amended table generally for fiscal year 1995 by augmenting dollar amounts by which population totals must be multiplied in order to equal the limitation from $20.00 to $50.00 under prior table to $24.75 to $62.00.

Subsec. (d). Pub. L. 103–397, § 3, added subsec. (d).

1983—Subsec. (a)(4). Pub. L. 98–63 struck out par. (4) which provided that if any part of a small unit was located within another unit, entitlement land within both units was deemed to be located within the smaller unit.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 2(a), (b)(1), and 3 of Pub. L. 103–397 effective Oct. 1, 1994, and amendment by section 2(b)(2) of Pub. L. 103–397 effective Oct. 1, 1998, see section 5(a) of Pub. L. 103–397, set out as a note under section 6902 of this title.

Section 5(b)(1) of Pub. L. 103–397 provided for the amendment of the table at the end of subsec. (c)(2) of this section during fiscal year 1995.

Section 5(b)(2) of Pub. L. 103–397 provided for the amendment of the table at the end of subsec. (c)(2) of this section during fiscal year 1996.

Section 5(b)(3) of Pub. L. 103–397 provided for the amendment of the table at the end of subsec. (c)(2) of this section during fiscal year 1997.

Section 5(b)(4) of Pub. L. 103–397 provided for the amendment of the table at the end of subsec. (c)(2) of this section during fiscal year 1998.

PAYMENTS MADE PRIOR TO JANUARY 1, 1983

Section 101(3) of Pub. L. 98–63 provided in part that: ''The United States shall not be subject to any cause of action or any liability for distribution of payments made prior to January 1, 1983, under the Act of October 20, 1976 (90 Stat. 2662), as amended [Pub. L. 94–565, see 31 U.S.C. 6901 et seq.], or regulations pursuant thereto.''

## § 6904. Additional payments

(a) In addition to payments the Secretary of the Interior makes under section 6902 of this title, the Secretary shall make a payment for each fiscal year to a unit of general local government collecting and distributing real property taxes (including a unit in Alaska outside the boundaries of an organized borough) in which is located an interest in land that—

(1) the United States Government acquires for—

(A) the National Park System; or

(B) the National Forest Wilderness Areas; and

(2) was subject to local real property taxes within the 5-year period before the interest is acquired.

(b) The Secretary shall make payments only for the 5 fiscal years after the fiscal year in which the interest in land is acquired. Under guidelines the Secretary prescribes, the unit of general local government receiving the payment from the Secretary shall distribute payments proportionally to units and school districts that lost real property taxes because of the acquisition of the interest. A unit receiving a distribution may use a payment for any governmental purpose.

(c) Each yearly payment by the Secretary under this section is equal to one percent of the fair market value of the interest in land on the date the Government acquires the interest. However, a payment may not be more than the amount of real property taxes levied on the property during the last fiscal year before the fiscal year in which the interest is acquired. A decision on fair market value under this section may not include an increase in the value of an interest because the land is rezoned when the rezoning causes the increase after the date of enactment of a law authorizing the acquisition of an interest under subsection (a) of this section.

(d) The Secretary may prescribe regulations under which payments may be made to units of general local government when subsections (a) and (b) of this section will not carry out the purpose of subsections (a) and (b).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1033.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6904(a) ..... | 31:1603(a)(1st, 3d sentences).<br>31:1603(e). | Oct. 20, 1976, Pub. L. 94–565, §3(a)–(d), 90 Stat. 2663.<br>Oct. 20, 1976, Pub. L. 94–565, 90 Stat. 2662, §3(e); added Oct. 17, 1978, Pub. L. 95–469, §3(3), 92 Stat. 1322. |
| 6904(b) ..... | 31:1603(a)(2d sentence), (b), (d). | |
| 6904(c) ..... | 31:1603(c). | |
| 6904(d) ..... | 31:1603(a)(last sentence). | |

In the section, the words ''land or'' are omitted as being included in ''interest in land''.

In subsection (a), before clause (1), the words ''the Secretary of the Interior makes'' are added for clarity. The words ''unit of general local government collecting and distributing real property taxes (including a unit in Alaska outside the boundaries of an organized borough)'' are substituted for ''county'' and 31:1603(a)(3d sentence) and (e) to eliminate unnecessary words. The words ''the jurisdiction of'' are omitted as surplus. In subclause (A), the words ''for the Redwood National Park pursuant to subchapter VII of chapter 1 of title 16'' are omitted as executed because the Redwood National Park is now part of the National Park System.

In subsection (b), the words ''The Secretary shall make payments only for the 5 fiscal years after the fiscal year in which the interest in land is acquired'' are substituted for 31:1603(b)(1st sentence) and (d) to eliminate unnecessary words. The words ''affected'' and ''for addition to either such systems'' are omitted as surplus. The words ''receiving a distribution'' are added for clarity.

In subsection (c), the words ''The amount of . . . made . . . fiscal . . . to any unit of local government and affected school districts'' are omitted as surplus. The words ''by the Secretary'' are added for clarity. The words ''made for any fiscal year to a unit of local government under subsection (a) of this section'', ''assessed and'', ''full'', and ''for addition to the National Park System or National Forest Wilderness Areas'' are omitted as surplus.

## § 6905. Redwood National Park and the Lake Tahoe Basin

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which an interest in land owned by the United States Government in the Redwood National Park is located. A unit may use the payment for any governmental purpose. The payment shall be made as provided in section 6903 of this title and shall include an amount payable under section 6903.

(b)(1) In addition to payments the Secretary makes under subsection (a) of this section, the Secretary shall make a payment for each fiscal year to each unit of general local government in which is located an interest in land—

(A) owned by the Government in the Redwood National Park; or

(B) acquired in the Lake Tahoe Basin under the Act of December 23, 1980 (Public Law 96–586, 94 Stat. 3383).

(2) The payment shall be made as provided in section 6904 of this title and shall include an amount payable under section 6904. However, an amount computed but not paid because of the first sentence of subsection (b) and the 2d sentence of subsection (c) of section 6904 shall be carried forward and applied to future years in which the payment would not otherwise equal the amount of real property taxes assessed and levied on the land during the last fiscal year before the fiscal year in which the interest was acquired until the amount is applied completely.

(3) The unit of general local government may use the payment for any governmental purpose.

(4) The Redwoods Community College District is a school district under section 6904(b) of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1034.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6905(a) ..... | 16:79*o*(a), (b). | Mar. 27, 1978, Pub. L. 95–250, § 106, 92 Stat. 171. |
| 6905(b)(1)–(3). | (uncodified). | Dec. 23, 1980, Pub. L. 96–586, § 2(i), 94 Stat. 3383. |
| | 16:79*o*(c). | |
| 6905(b)(4) | 16:79*o*(d). | |

In subsection (a), the words ''Notwithstanding any contrary provision of sections 1601 to 1607 of title 31'' are omitted as unnecessary because of the restatement. The word ''general'' is added for consistency in the revised title and with other titles of the United States Code. The words ''an interest in'' are added for consistency because of the source provisions restated in the revised section. The word ''Government'' is added for consistency in the revised title and with other titles of the Code. The text of 16:79*o*(a)(last sentence) is omitted as unnecessary.

In subsection (b)(1)–(3), the source provisions are combined for clarity and because of the restatement.

In subsection (b)(2), the words ''portion of the total'', ''full'', and ''land or'' are omitted as surplus. The words ''for addition to Redwood National Park'' are omitted as unnecessary because of the restatement.

In subsection (b)(4), the word ''affected'' is omitted as surplus.

REFERENCES IN TEXT

The provisions of Act of December 23, 1980 (Public Law 96–586, 94 Stat. 3383) which relate to the acquisition of the Lake Tahoe Basin, referred to in subsec. (b)(1)(B), are not classified to the Code.

### § 6906. Funding

For each of fiscal years 2008 through 2012—

(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1035; Pub. L. 110–343, div. C, title VI, § 601(c)(1), Oct. 3, 2008, 122 Stat. 3911.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6906 ..... | 31:1607. | Oct. 20, 1976, Pub. L. 94–565, § 7, 90 Stat. 2665. |

The words ''to the Secretary of the Interior'' are added for clarity. The words ''*Provided*, That, notwithstanding any other provision of this chapter'' and ''in advance'' are omitted as unnecessary.

AMENDMENTS

2008—Pub. L. 110–343 amended section generally. Prior to amendment, section read as follows: ''Necessary amounts may be appropriated to the Secretary of the Interior to carry out this chapter. Amounts are available only as provided in appropriation laws.''

### § 6907. State legislation requiring reallocation or redistribution of payments to smaller units of general purpose government

(a) Notwithstanding any other provision of this chapter, a State may enact legislation which requires that any payments which would be made to units of general local government pursuant to this chapter be reallocated and redistributed in whole or part to other smaller units of general purpose government which (1) are located within the boundaries of the larger unit of general local government, (2) provide general governmental services and (3) contain entitlement lands within their boundaries. Such reallocation or redistribution shall generally reflect the level of services provided by, and the number of entitlement acres within, the smaller unit of general local government.

(b) Upon enactment of legislation by a State, described in subsection (a), the Secretary shall make one payment to such State equaling the aggregate amount of payments which he otherwise would have made to units of general local government within such State pursuant to this chapter. It shall be the responsibility of such State to make any further distribution of the payment pursuant to subsection (a). Such redistribution shall be made within 30 days after receipt of such payment. No payment, or portion thereof, made by the Secretary shall be used by any State for the administration of this subsection or subsection (a).

(c) Appropriations made for payments in lieu of taxes for a fiscal year may be used to correct underpayments in the previous fiscal year to achieve equity among all qualified recipients.

(Added Pub. L. 98–63, title I, § 101(4), July 30, 1983, 97 Stat. 324; amended Pub. L. 103–272, § 4(f)(1)(U)(ii), July 5, 1994, 108 Stat. 1362.)

AMENDMENTS

1994—Pub. L. 103–272 inserted section catchline.

## CHAPTER 71—JOINT FUNDING SIMPLIFICATION

Sec.
7101. Purposes.
7102. Definitions.
7103. Authority of the President and heads of executive agencies.
7104. Processing project requests to be financed by at least 2 assistance programs.
7105. Prescribing uniform technical and administrative provisions.
7106. Delegation of supervision of assistance.
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7108. Limitation on authority under sections 7105–7107.
7109. Appropriations available for joint financing.
7110. Use of joint financing provisions for Federal-State assisted projects.
7111. Report to Congress.
7112. Expiration date.

### § 7101. Purposes

The purposes of this chapter are to—

(1) enable States, local governments, and private nonprofit organizations to use assistance of the United States Government more effectively and efficiently;

(2) adapt the assistance more readily to particular needs through wider use of projects that are supported by more than one executive agency, assistance program, or appropriation of the United States Government; and

(3) encourage Federal-State arrangements under which local governments and private

nonprofit organizations may more effectively and efficiently combine Federal and State resources to support projects of common interest to those local governments and those organizations.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1035.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7101 ..... | 42:4251. | Dec. 5, 1974, Pub. L. 93–510, § 2, 88 Stat. 1604. |

In the chapter, the words ''executive agency'' are substituted for ''Federal agency'' because of the definition in section 102 of the revised title. The words ''assistance program'' are substituted for ''Federal assistance programs'' because of the definition in section 7102 of the revised title.

In the section, the words ''resources available from'' and ''It is the further purpose of this chapter'' are omitted as unnecessary because of the restatement.

## § 7102. Definitions

In this chapter—

(1) ''applicant'' means a State, local government, or private nonprofit organization applying for assistance for one project.

(2) ''assistance program'' means a program of the United States Government providing assistance through a grant or contract but does not include revenue sharing, a loan, a loan guarantee, or insurance.

(3) ''local government'' means a county, city, political subdivision of a county or city, or other general purpose political subdivision of a State, a school district, a council of governments, or other instrumentality of a local government.

(4) ''project'' means an undertaking that includes components that contribute materially to carrying out one purpose or closely related purposes and are proposed or approved for assistance under—

(A) more than one United States Government program; or

(B) at least one Government program and at least one State program.

(5) ''State'' means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a tribe as defined in section 3(c) of the Indian Financing Act of 1974 (25 U.S.C. 1452(c)).

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1035; Pub. L. 103–272, § 4(f)(1)(V), July 5, 1994, 108 Stat. 1363.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7102(1) ..... | 42:4261(2), (4). | Dec. 5, 1974, Pub. L. 93–510, § 12, 88 Stat. 1608. |
| 7102(2) ..... | 42:4261(1). | |
| 7102(3) ..... | 42:4261(6). | |
| 7102(4) ..... | 42:4261(3). | |
| 7102(5) ..... | 42:4261(5). | |

In clause (1), the words ''applying for'' are substituted for ''seeking'' for clarity. The words ''acting separately or together'' are omitted as unnecessary. The text of 42:4261(4) is omitted as unnecessary because of section 102 of the revised title.

In clause (2), the words ''of the United States Government'' are added for clarity. The words ''assistance in the form of'' are omitted as unnecessary.

In clause (3), the words ''a county, city, political subdivision of a county or city, or other general purpose political subdivision of a State'' are substituted for ''a local unit of government including a city, county, parish, town, township, village,'' for consistency in the revised title and because of 1:2. The word ''agency'' is omitted because it is included in ''instrumentality''.

In clause (4), the words ''that contribute'' are substituted for ''if each of those components'' to eliminate unnecessary words. The words ''whether of a temporary or continuing nature'' are omitted as unnecessary.

In clause (5), the words ''any of the several'' are omitted as unnecessary. The words ''the Commonwealth of Puerto Rico'' are omitted as being included in ''territory or possession of the United States'' and as unnecessary because of 48:734.

AMENDMENTS

1994—Par. (3). Pub. L. 103–272 substituted ''political'' for ''politicial'' after ''other general purpose''.

## § 7103. Authority of the President and heads of executive agencies

(a) The President shall prescribe necessary regulations to carry out section 7101 of this title and to ensure that this chapter is applied by all executive agencies consistently. The regulations may require executive agencies to adopt or prescribe procedures requiring applicants for assistance for a project to be jointly financed under this chapter to take steps to—

(1) get the views and recommendations of States and local governments that may be significantly affected by the project; and

(2) resolve questions of common interest to those States and local governments before making application.

(b) Subject to regulations prescribed under subsection (a) of this section and other law, the head of an executive agency may do the following by an order of the agency head or by agreement with another executive agency:

(1) identify related programs likely to be particularly suitable in providing joint financing for specific kinds of projects.

(2) to assist in planning and developing a project financed from different programs, develop and prescribe—

(A) guidelines;

(B) model or illustrative projects;

(C) joint or common application forms; and

(D) other materials or guidance.

(3) review administrative program requirements to identify requirements that may impede joint financing of a project and modify the requirements when appropriate.

(4) establish common technical or administrative regulations for related programs to assist in providing joint financing to support a specific project or class of projects.

(5) establish joint or common application processing and project supervision procedures, including procedures for designating—

(A) a lead agency responsible for processing applications; and

(B) a managing agency responsible for project supervision.

(c) The head of an executive agency shall—

(1) take maximum action to carry out section 7101 of this title in conducting an assistance program of the agency; and

(2) consult and cooperate with the heads of other executive agencies to carry out section 7101 of this title in conducting assistance programs of different executive agencies that may be used jointly to finance projects undertaken by States, local governments, or private nonprofit organizations.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1036.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7103(a) ..... | 42:4252(a). | Dec. 5, 1974, Pub. L. 93–510, § 3, 88 Stat. 1604. |
| 7103(b) ..... | 42:4252(b). | |
| 7103(c) ..... | 42:4252(c). | |

In subsection (a), before clause (1), the words ''as may be necessary or appropriate'' are omitted as unnecessary. The words ''to carry out section 7101 of this title'' are substituted for ''in accordance with its purposes'' as being more precise. The word ''requiring'' is substituted for ''that will assure that'' to eliminate unnecessary words. The words ''to be jointly financed under this chapter'' are substituted for ''funded pursuant to the provisions of this chapter'' for clarity and consistency. In clause (1), the words ''States and local governments'' are substituted for ''non-Federal agencies'' for clarity and because of the definition in section 7102.

In subsection (b), before clause (1), the words ''under subsection (a) of this section'' are substituted for ''as the President may prescribe'' because of the restatement. The words ''applicable'' and ''take the following actions'' are omitted as unnecessary. In clauses (1), (3), and (4), the words ''joint financing'' are substituted for ''joint support'' and ''joint use of funds'' for consistency in the revised chapter. In clause (1), the words ''or appropriate'' and ''thereunder'' are omitted as unnecessary. In clause (3), the words ''to identify'' are substituted for ''in order to determine'', and the word ''modify'' is substituted for ''the extent to which such requirements may be modified'' and ''making such modifications'', to eliminate unnecessary words. In clause (5), the words ''or mechanisms'' and ''for designation'' are omitted as unnecessary.

In subsection (c), the words ''take maximum action'' are substituted for ''be responsible for taking actions, to the maximum extent permitted under applicable law'' to eliminate unnecessary words. The words ''to carry out section 7101 of this title'' are substituted for ''that will further the purpose of this chapter'' and ''to promote the purposes of this chapter'' as being more precise. The words ''in conducting'' are substituted for ''with respect to'' for clarity. The words ''used jointly to finance'' are substituted for ''used jointly in support of'' for consistency in the revised chapter. The words ''Each Federal agency head shall also'' and the words ''in order similarly'' are omitted as surplus.

EXECUTIVE ORDER NO. 11867

Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, which delegated to Administrator of General Services authority to issue regulations, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EX. ORD. NO. 11893. TRANSFERRING CERTAIN FUNCTIONS FROM GENERAL SERVICES ADMINISTRATION TO OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, provided:

By virtue of the authority vested in me as President by the Constitution and Statutes of the United States, particularly by section 301 of title 3 of the United States Code, the Federal Property and Administrative Services Act of 1949, as amended, the Budget and Accounting Act, 1921, as amended, the Budget and Accounting Procedures Act of 1950, as amended, Reorganization Plan No. 2 of 1970 [set out in the Appendix to Title 5, Government Organization and Employees]; and section 5317 of title 5 of the United States Code, it is hereby ordered as follows:

SECTION 1. There are hereby transferred to the Director of the Office of Management and Budget all policy functions that were transferred to the Administrator of General Services by Section 1 (1) of Executive Order No. 11717, dated May 9, 1973 [set out as a note under section 501 of Title 31, Money and Finance], and Executive Order No. 11867, dated June 19, 1975 [formerly set out above].

SEC. 2. The Director of the Office of Management and Budget shall continue to perform policy formulation and general oversight functions with regard to the other transfers made by Executive Order No. 11717 and Executive Order No. 11867. No function vested by statute in the Administrator shall be deemed to be affected by the provisions of this order.

SEC. 3. So much of the personnel, property and records attendant to the functions transferred by this order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Office of Management and Budget, at such times as the Director shall specify.

SEC. 4. Executive Order No. 11717 of May 9, 1973, and Executive Order No. 11867 of June 19, 1975, are hereby superseded to the extent that they are inconsistent with this order. Any circulars, directives, or regulations issued pursuant to functions transferred by this order shall remain in effect until modified or rescinded by the Office of Management and Budget.

SEC. 5. Section 2 of Executive Order No. 11861 of May 21, 1975, as amended [formerly set out as a note under section 5317 of Title 5, Government Organization and Employees], placing certain positions in level V of the Executive Schedule, is further amended by deleting ''(9) Associate Administrator for Federal Management Policy, General Services Administration.''.

SEC. 6. This order shall be effective as of December 31, 1975.

GERALD R. FORD.

## § 7104. Processing project requests to be financed by at least 2 assistance programs

In processing an application or request for assistance for a project to be financed by at least 2 assistance programs, the head of an executive agency shall take action that will ensure that—

(1) required reviews and approvals are handled expeditiously;

(2) complete account is taken of special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly financed project;

(3) an applicant is required to deal with a minimum number of representatives of the United States Government;

(4) an applicant is promptly informed of a decision or special problem that could affect the feasibility of providing joint assistance under the application; and

(5) an applicant is not required to get information or assurances from one executive agency for a requesting executive agency when the requesting agency may get the information or assurances directly.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1037.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7104 ..... | 42:4253. | Dec. 5, 1974, Pub. L. 93–510, § 4, 88 Stat. 1605. |

In the section, before clause (1), the words ''for a project to be financed by at least 2 assistance pro-

grams'' are substituted for ''under two or more Federal programs in support of any project'' for consistency in the revised chapter. The words ''shall take action'' are substituted for ''Actions taken by Federal agency heads pursuant to this chapter that relate to'', and the words ''that will ensure'' are substituted for ''shall be designed to assure'', to eliminate unnecessary words. The words ''so far as reasonably possible'' are omitted as surplus. In clause (4), the word ''impediments'' is omitted as surplus. The word ''providing'' is substituted for ''Federal provision of'', and the words ''joint assistance under the application'' are substituted for ''on a joint basis'', to eliminate unnecessary words. Clause (5) is substituted for 42:4253(5) because of the restatement.

### § 7105. Prescribing uniform technical and administrative provisions

(a) To make participation in a project easier than would be possible because of varying or conflicting technical or administrative regulations and procedures not required by law, the head of an executive agency may prescribe uniform provisions about inconsistent or conflicting requirements on—

(1) financial administration of the project (including accounting, reporting and auditing, and maintaining a separate bank account), to the extent consistent with section 7108 of this title;

(2) the timing of payments by the United States Government for the project when one schedule or a combined schedule is to be established for the project;

(3) providing assistance by grant rather than procurement contract or by procurement contract rather than by grant; and

(4) accountability for, or the disposition of, records, property, or structures acquired or constructed with assistance from the Government when common regulations are established for the project.

(b) To make easier the processing of applications for assistance, the head of an executive agency may provide for review of proposals for a project by one panel, board, or committee where reviews by separate panels, boards, or committees are not specifically required by law.

(c) Notwithstanding a requirement that one public agency or a specific public agency be established or designated to carry out or supervise that part of the assistance from the Government under an assistance program for a jointly financed project, the head of the executive agency carrying out the program may waive the requirement when—

(1) administration by another public agency is consistent with State or local law and the objectives of the assistance program; and

(2)(A) the waiver is requested by the head of a unit of general government certifying jurisdiction over the public agencies concerned; or

(B) the State or local public agencies concerned agree to the waiver.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1037.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7105(a) ..... | 42:4255(a). | Dec. 5, 1974, Pub. L. 93–510, § 6, 88 Stat. 1606. |
| 7105(b) ..... | 42:4255(b). | |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7105(c) ..... | 42:4255(c). | |

In subsection (a), before clause (1), the words ''To make participation in a project easier than would be possible'' are substituted for ''In order to provide for projects'' for clarity. The words ''because of'' are substituted for ''that would otherwise be subject to'' to eliminate unnecessary words. The word ''prescribe'' is substituted for ''adopt'', and the word ''about'' is substituted for ''with respect to'', for consistency in the revised title. In clause (2), the words ''payments by the United States Government'' are substituted for ''Federal payments'' for consistency in the revised title. In clause (3), the words ''providing assistance by'' are substituted for ''that assistance be extended in the form of'' to eliminate unnecessary words. The word ''procurement'' is added for consistency with chapter 63 of the revised title. In clause (4), the words ''assistance from the Government'' are substituted for ''Federal assistance'' for consistency.

In subsection (b), the words ''To make easier'' are substituted for ''In order to permit'', and the words ''applications for assistance'' are substituted for ''applications in accordance with the purposes of this chapter'', for clarity. The words ''where . . . are not'' are substituted for ''except when such review is'' because of the restatement.

Subsection (c) is substituted for 42:4255(c) for consistency in subtitle V of the revised title.

### § 7106. Delegation of supervision of assistance

With the approval of the President, the head of an executive agency may delegate or otherwise arrange to have another executive agency carry out or supervise a project or class of projects jointly financed under this chapter. A delegation—

(1) shall be made under conditions ensuring that duties and powers delegated are exercised consistent with law; and

(2) may not relieve the head of an executive agency of responsibility for the proper and efficient management of a project for which the agency provides assistance.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1038.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7106 ..... | 42:4256. | Dec. 5, 1974, Pub. L. 93–510, § 7, 88 Stat. 1606. |

In the section, before clause (1), the words ''to have another executive agency carry out or supervise'' are substituted for ''to other Federal agencies powers and functions relating to the supervision or administration'' to eliminate unnecessary words. In clause (1), the words ''under conditions ensuring'' are substituted for ''only on such conditions as may be appropriate to assure'', the word ''consistent'' is substituted for ''in full conformity'', and the word ''law'' is substituted for ''applicable statutory provisions and policies'', to eliminate unnecessary words. In clause (2), the words ''for which the agency provides assistance'' are substituted for ''funded by their agencies'', for clarity because the source provisions do not provide for funding. The words ''of Federal assistance'', ''for other agencies to perform'', ''such activities with respect to'', and ''under this section'' are omitted as unnecessary.

### § 7107. Joint management funds

(a) In supporting a project, a joint management fund may be established to administer

more effectively amounts received from more than one assistance program or appropriation. A proportional share of the amount required to pay a grantee shall be transferred periodically to the fund from each program or appropriation. When a project is completed, the grantee shall return to the fund an amount not expended.

(b) An account in a joint management fund is subject to an agreement made by the heads of the executive agencies providing assistance for the project about the responsibilities of each agency. An agreement shall—

(1) ensure the availability of necessary information to the executive agencies and Congress;

(2) provide that the agency administering a fund is responsible and accountable by program and appropriation for the amounts provided for the purposes of each account in the fund; and

(3) include procedures for returning, subject to fiscal year limitations, an excess amount to participating executive agencies under the applicable appropriation. An excess amount of an expired appropriation lapses from the fund.

(c) For each project financed through an account in a joint management fund, a recipient of an amount from the fund shall keep records prescribed by the head of the executive agency responsible for administering the fund. The records shall include—

(1) the amount and disposition by the recipient of assistance received under each program and appropriation;

(2) the total cost of the project for which assistance was given or used;

(3) that part of the cost of the project provided from other sources; and

(4) other records that will make it easier to carry out an audit.

(d) Records of a recipient related to an amount received from a joint management fund shall be made available to the head of the executive agency responsible for administering the fund and the Comptroller General for inspection and audit.

(e) For a project subject to a joint management fund, one non-Government share may be established conforming to—

(1) the proportional shares applicable to the assistance programs involved; and

(2) the proportional shares of an amount transferred to the project account from each of the programs.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1038.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7107(a) ..... | 42:4257(a). | Dec. 5, 1974, Pub. L. 93–510, § 8, 88 Stat. 1606. |
| 7107(b) ..... | 42:4257(b). | |
| 7107(c) ..... | 42:4257(c). | |
| 7107(d) ..... | 42:4257(d). | |
| 7107(e) ..... | 42:4257(e). | |

In subsection (a), the words ''to administer more effectively'' are substituted for ''In order to provide the more effective administration'' to eliminate unnecessary words. The words ''amounts received'' are substituted for ''funds drawn'' for consistency. The words ''A proportional share of the amount required to pay a grantee'' are substituted for ''proportionate share of amounts needed for payment to the grantee'' because of the restatement. The words ''with respect to such projects'', ''affected'', and ''from time to time'' are omitted as unnecessary.

In subsection (b), before clause (1), the words ''made by the heads of executive agencies'' are substituted for ''as may be entered into by the Federal agencies concerned'' to eliminate unnecessary words. The words ''providing assistance for the project about the responsibilities of each agency'' are substituted for ''with respect to the discharge of the responsibilities of those agencies'' for clarity. In clause (2), the word ''established'' is omitted as unnecessary. In clause (3), the words ''for determining'', ''whether amounts in the account are in excess of the amounts required'', and ''applicable to'' are omitted as unnecessary. The words ''excess amount'' are substituted for ''that excess'' for clarity.

In subsection (c), before clause (1), the words ''established pursuant to this section'' are omitted as unnecessary. The words ''amount from'' are substituted for ''moneys drawn from'' for consistency. The word ''include'' is substituted for ''as a minimum, fully disclose'' to eliminate unnecessary words. In clause (4), the words ''to carry out'' are added for clarity. The word ''effective'' is omitted as unnecessary.

In subsection (d), the word ''Records'' is substituted for ''books, documents, papers, and records'', and the words ''shall be made available . . . for inspection and audit'' are substituted for ''shall have access for the purpose of audit and examination to'', to eliminate unnecessary words and for consistency in the revised title and with other titles of the United States Code. The word ''related'' is substituted for ''that are pertinent'', and the words ''an amount'' are substituted for the word ''money'', for consistency. The words ''of the United States'', and ''or any of their duly authorized representatives'' are omitted as unnecessary.

In subsection (e), the word ''For'' is substituted for ''in the case of'' to eliminate unnecessary words. The words ''proportional shares'' are substituted for ''federal share ratios'' for clarity.

## § 7108. Limitation on authority under sections 7105–7107

Under regulations prescribed by the President, the head of an executive agency may act under sections 7105–7107 of this title for a project assisted under at least 2 assistance programs. The regulations shall ensure that the head of an executive agency acts under those sections only—

(1) when a problem cannot be adequately solved through other action under this chapter or other law;

(2) when necessary to promote expeditious processing of applications or effective and efficient administration of the project; and

(3) in a way consistent with protecting the interest of the United States Government and with the program purposes and requirements of law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1039.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7108 ..... | 42:4254. | Dec. 5, 1974, Pub. L. 93–510, § 5, 88 Stat. 1605. |

In the section, the words ''act under'' are substituted for ''use the authorities described in'', and the words ''when necessary'' are substituted for ''that they are applied only as necessary'', to eliminate unnecessary words. The words ''head of an executive agency acts under those sections only'' are substituted for ''the au-

thorities are limited in use to'' for clarity. The words ''These authorities shall be exercised only'', ''Where appropriate to further the purposes of this chapter, and subject to the conditions prescribed in this section'', ''(relating to the establishment of uniform technical or administrative requirements, delegation of powers and responsibilities, and establishment of joint management funds)'', ''include criteria or procedures to'', and ''that they are applied'', are omitted as unnecessary because of the restatement.

### § 7109. Appropriations available for joint financing

An appropriation available for technical assistance or personnel training under an assistance program is available for technical assistance and training for a project proposed or approved for joint financing involving the program and another assistance program.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1039.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7109 ..... | 42:4258. | Dec. 5, 1974, Pub. L. 93–510, § 9, 88 Stat. 1607. |

In this section, the words ''the provision of'' are omitted as surplus and the word ''for'' is substituted for ''in connection with'' for consistency.

### § 7110. Use of joint financing provisions for Federal-State assisted projects

Under regulations prescribed by the President, the head of an executive agency may make an agreement with a State to extend the benefits of this chapter to a project involving assistance from at least one executive agency and at least one State agency. The agreement may include arrangements to process requests or administer assistance on a joint basis.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1039.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7110 ..... | 42:4259. | Dec. 5, 1974, Pub. L. 93–510, § 10, 88 Stat. 1607. |

In this section, the words ''as appropriate'' are omitted as surplus. The words ''to process requests or administer assistance'' are substituted for ''for the processing of requests for, or the administration of, assistance to such projects'' to eliminate unnecessary words.

### § 7111. Report to Congress

By February 3, 1984, the President shall submit to Congress a report on actions taken under this chapter and make recommendations for its continuation, amendment, or termination. The report shall include a detailed evaluation of the operation of the chapter, including information on the benefits and costs of jointly financed projects that accrue to participating States, local governments, private nonprofit organizations, and the United States Government.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1039.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7111 ..... | 42:4260. | Dec. 5, 1974, Pub. L. 93–510, § 11, 88 Stat. 1608. |

The words ''By February 3, 1984'' are substituted for ''at least one year prior to the expiration of this chapter'' for clarity and to reflect the 5-year extension granted the joint funding simplification program by the Act of December 16, 1980 (Pub. L. 96–534, 94 Stat. 3164). The word ''comprehensive'' is omitted as unnecessary. The word ''amendment'' is substituted for ''modification'' for clarity. The word ''include'' is substituted for ''provide'', and the word ''operation'' is substituted for ''functioning'', for consistency in the chapter.

### § 7112. Expiration date

This chapter expires on February 3, 1985.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1039.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7112 ..... | 42:4251(note). | Dec. 5, 1974, Pub. L. 93–510, § 13, 88 Stat. 1608; Dec. 16, 1980, Pub. L. 96–534, 94 Stat. 3164. |

## CHAPTER 73—ADMINISTERING BLOCK GRANTS

Sec.
7301. Purpose.
7302. Definitions.
7303. Reports and public hearings on proposed uses of amounts.
7304. Availability of records.
7305. State auditing requirements.

### § 7301. Purpose

It is the purpose of this chapter to ensure that—

(1) block grant amounts are allocated for programs of special importance to meet the needs of local governments, residents of local governments, and other eligible entities; and

(2) all eligible local governments, residents of local governments, and other eligible entities are treated fairly in distributing block grant amounts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1039.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7301 ..... | 31:1243(note). | Aug. 13, 1981, Pub. L. 97–35, § 1741(a), 95 Stat. 762. |

In the chapter, the words ''chief executive officer'' are added for consistency in the revised title and with other titles of the United States Code.

In the section, before clause (1), the words ''It is the purpose of this chapter'' are added for clarity and consistency in the revised title and with other titles of the Code. The words ''each State which receives block grant funds under this Act shall comply with the requirements of this chapter, to the extent that such funds may be used at the discretion of the State, as described in subsection (b)(1)(B)'' are omitted as surplus and because of the restatement of the source provisions in section 7302 of the revised title. In clause (2), the words ''urban and rural'' are omitted as surplus.

### § 7302. Definitions

In this chapter—

(1) ''block grant amounts'' means amounts received for a program that—

(A) directly allocates amounts to States only, except for amounts allocated for use by the agency administering the program; and

(B) provides that the State may use any part of the amounts at its discretion to continue to support activities financed on August 12, 1981, under programs whose authorizations were discontinued by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357) and that were financed on August 12, 1981, by allocations by the United States Government to local governments or other eligible entities, or both local governments and other eligible entities.

(2) ''State'' includes the District of Columbia and territories and possessions of the United States.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1040.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7302 ..... | 31:1243(note). | Aug. 13, 1981, Pub. L. 97–35, § 1741(b), 95 Stat. 763. |

In clause (1)(A), the word ''Federal'' is omitted as surplus because of section 101 of the revised title.

REFERENCES IN TEXT

The Omnibus Budget Reconciliation Act of 1981, referred to in par. (1)(B), is Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357, as amended. For complete classification of this Act to the Code, see Tables.

### § 7303. Reports and public hearings on proposed uses of amounts

(a)(1) The chief executive officer of each State shall prepare for each fiscal year a report on the proposed use during the fiscal year of block grant amounts received by the State. The report shall include—

(A) a statement of goals and objectives;

(B) information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served; and

(C) the criteria for, and way of, distributing the amounts, including details on the way amounts will be distributed on the basis of need to carry out the purposes of the block grant amounts.

(2) Beginning with the fiscal year ending September 30, 1983, each report shall describe how the State met the goals, objectives, and needs in using the amounts described in the report for the prior fiscal year.

(b) A State may not receive block grant amounts for a fiscal year until the State conducts a public hearing, after adequate public notice, on the proposed use and distribution of the amounts set out in the report prepared under subsection (a) of this section for the fiscal year.

(c) Each report prepared under subsection (a) of this section and changes to the report shall be made public in the State on a timely basis and in a way that encourages comments from interested local government and persons.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1040.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7303 ..... | 31:1243(note). | Aug. 13, 1981, Pub. L. 97–35, § 1742, 95 Stat. 763. |

In subsection (a)(1), before clause (A), the words ''for each fiscal year'' and ''during the fiscal year'' are substituted for ''for the previous fiscal year'' for clarity.

In subsection (b), the words ''by the State'' are omitted as surplus.

In subsection (c), the words ''by a State'' are omitted as surplus.

### § 7304. Availability of records

To evaluate and review the use of block grant amounts, consolidated assistance, and other grant programs established or provided for in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357), records related to the amounts, assistance, or programs that are in the possession, custody, or control of a State, a political subdivision of a State, or a grantee of a State or political subdivision of a State shall be made available to the Comptroller General.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1040.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7304 ..... | 31:1243(note). | Aug. 13, 1981, Pub. L. 97–35, § 1744, 95 Stat. 764. |

The words ''records . . . shall be made available to'' are substituted for ''shall have access to any books, accounts, records, correspondence, or other documents'' for consistency in the revised title and with other titles of the United States Code.

REFERENCES IN TEXT

The Omnibus Budget Reconciliation Act of 1981, referred to in text, is Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357, as amended. For complete classification of this Act to the Code, see Tables.

### § 7305. State auditing requirements

(a) The chief executive officer of each State shall conduct financial and compliance audits of block grant amounts received under the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357) and amounts received under a consolidated assistance program established or provided for in the Act. An audit shall be conducted for the 2-year period beginning on October 1, 1981, and for each 2-year period thereafter. As far as practicable, the audit shall be conducted consistent with standards the Comptroller General prescribes for the audit of governmental entities, programs, activities, and functions.

(b) An audit under subsection (a) of this section is in place of other financial and compliance audits of those amounts that the chief executive officer of the State is required to conduct under another provision of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357) unless the other provision, by explicit reference to this section, provides otherwise.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1041.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7305 ..... | 31:1243(note). | Aug. 13, 1981, Pub. L. 97–35, § 1745, 95 Stat. 764. |

In subsection (a), the word ''prescribes'' is substituted for ''established'', and the word ''entities'' is substituted for ''organizations'', for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the words ''of funds'' and ''conducted'' are omitted as surplus.

REFERENCES IN TEXT

The Omnibus Budget Reconciliation Act of 1981, referred to in text, is Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357, as amended. For complete classification of this Act to the Code, see Tables.

## CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

Sec.
7501. Definitions.
7502. Audit requirements; exemptions.
7503. Relation to other audit requirements.
7504. Federal agency responsibilities and relations with non-Federal entities.
7505. Regulations.
7506. Monitoring responsibilities of the Comptroller General.
7507. Effective date.

AMENDMENTS

1996—Pub. L. 104–156, § 2, July 5, 1996, 110 Stat. 1396, amended chapter analysis generally, substituting in item 7504 ''Federal agency responsibilities and relations with non-Federal entities'' for ''Cognizant agency responsibilities'' and in item 7507 ''Effective date'' for ''Effective date; report''.

### § 7501. Definitions

(a) As used in this chapter, the term—

(1) ''Comptroller General'' means the Comptroller General of the United States;

(2) ''Director'' means the Director of the Office of Management and Budget;

(3) ''Federal agency'' has the same meaning as the term ''agency'' in section 551(1) of title 5;

(4) ''Federal awards'' means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

(5) ''Federal financial assistance'' means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

(6) ''Federal program'' means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

(7) ''generally accepted government auditing standards'' means the government auditing standards issued by the Comptroller General;

(8) ''independent auditor'' means—

(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

(B) a public accountant who meets such independence standards;

(9) ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(10) ''internal controls'' means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(A) Effectiveness and efficiency of operations.[1]

(B) Reliability of financial reporting.[1]

(C) Compliance with applicable laws and regulations;

(11) ''local government'' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

(12) ''major program'' means a Federal program identified in accordance with risk-based criteria prescribed by the Director under this chapter, subject to the limitations described under subsection (b);

(13) ''non-Federal entity'' means a State, local government, or nonprofit organization;

(14) ''nonprofit organization'' means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

(15) ''pass-through entity'' means a non-Federal entity that provides Federal awards to a subrecipient to carry out a Federal program;

(16) ''program-specific audit'' means an audit of one Federal program;

(17) ''recipient'' means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

(18) ''single audit'' means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

(19) ''State'' means any State of the United States, the District of Columbia, the Common-

[1] So in original.

wealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

(20) ''subrecipient'' means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

(1) the larger of $30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $10,000,000,000;

(2) the larger of $3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $10,000,000,000; or

(3) the larger of $300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed $300,000 but are less than or equal to $100,000,000.

(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

(Added Pub. L. 98–502, §2(a), Oct. 19, 1984, 98 Stat. 2327; amended Pub. L. 104–156, §2, July 5, 1996, 110 Stat. 1396.)

REFERENCES IN TEXT

The Alaskan Native Claims Settlement Act, referred to in subsec. (a)(9), probably means the Alaska Native Claims Settlement Act, Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1996—Pub. L. 104–156 reenacted section catchline without change and amended text generally, substituting present provisions for similar provisions defining terms used in this chapter.

SHORT TITLE OF 1996 AMENDMENT

Section 1(a) of Pub. L. 104–156 provided that: ''This Act [amending this chapter and enacting provisions set out as notes below] may be cited as the 'Single Audit Act Amendments of 1996'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–502, §1(a), Oct. 19, 1984, 98 Stat. 2327, provided that: ''This Act [enacting this chapter and provisions set out as notes under this section] may be cited as the 'Single Audit Act of 1984'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

TRANSITIONAL APPLICATION

Section 3 of Pub. L. 104–156 provided that: ''Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act) the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.''

CONGRESSIONAL STATEMENT OF PURPOSE

Section 1(b) of Pub. L. 104–156 provided that: ''The purposes of this Act [see Short Title of 1996 Amendment note above] are to—

''(1) promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities;

''(2) establish uniform requirements for audits of Federal awards administered by non-Federal entities;

''(3) promote the efficient and effective use of audit resources;

''(4) reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and

''(5) ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by this Act).''

Pub. L. 98–502, §1(b), Oct. 19, 1984, 98 Stat. 2327, provided that: ''It is the purpose of this Act [enacting this chapter and provisions set out as notes under this section]—

''(1) to improve the financial management of State and local governments with respect to Federal financial assistance programs;

''(2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;

''(3) to promote the efficient and effective use of audit resources; and

''(4) to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).''

TENNESSEE VALLEY AUTHORITY AUDITS UNAFFECTED BY SINGLE AUDIT REQUIREMENTS

Pub. L. 98–502, §2(b), Oct. 19, 1984, 98 Stat. 2334, provided that: ''The provisions of this Act [enacting this chapter and provisions set out as notes under this section] shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority.''

## § 7502. Audit requirements; exemptions

(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in

excess of $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

(i) the audit requirements of this chapter; and

(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below $300,000.

(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, performance audits shall not be required except as authorized by the Director.

(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

(1) cover the operations of the entire non-Federal entity; or

(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

(e) The auditor shall—

(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

(2) determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;

(3) with respect to internal controls pertaining to the compliance requirements for each major program—

(A) obtain an understanding of such internal controls;

(B) assess control risk; and

(C) perform tests of controls unless the controls are deemed to be ineffective; and

(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

(2) Each pass-through entity shall—

(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by

the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director.

(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

(1) 30 days after receipt of the auditor's report; or

(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria issued under section 7504, when the 9-month timeframe would place an undue burden on the non-Federal entity.

(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

(Added Pub. L. 98–502, § 2(a), Oct. 19, 1984, 98 Stat. 2329; amended Pub. L. 103–272, § 4(f)(1)(W), July 5, 1994, 108 Stat. 1363; Pub. L. 104–156, § 2, July 5, 1996, 110 Stat. 1399.)

REFERENCES IN TEXT

The effective date of the Single Audit Act Amendments of 1996, referred to in subsec. (h)(2)(A), is the effective date of Pub. L. 104–156, which is classified generally to this chapter. See section 7507 of this title.

AMENDMENTS

1996—Pub. L. 104–156 reenacted section catchline without change and amended text generally, substituting present provisions for similar provisions relating to audit requirements and exemptions from such requirements for State and local governments receiving Federal financial assistance of $100,000 or more in any fiscal year and requiring audits to be conducted annually in most instances, to cover entirety of government operations, for reports to be made on audits in specified time period, and for appropriate corrective action plans to be submitted to Federal officials for any material State or local noncompliance with Federal laws and regulations.

1994—Subsec. (b)(2). Pub. L. 103–272, § 4(f)(1)(W), substituted ''October 19, 1984'' for ''the date of enactment of this chapter'' in subpar. (A) and for ''such date'' in subpar. (B).

Subsec. (d)(5), (6). Pub. L. 103–272, § 4(f)(1)(W)(iii), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: ''Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of $25,000 or more under chapter 67 of this title (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.''

Subsec. (g). Pub. L. 103–272, § 4(f)(1)(W)(iv), substituted ''section 3512(c)'' for ''section 3512(b)''.

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.

## § 7503. Relation to other audit requirements

(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

(Added Pub. L. 98–502, § 2(a), Oct. 19, 1984, 98 Stat. 2332; amended Pub. L. 103–272, § 4(f)(1)(X), July 5, 1994, 108 Stat. 1363; Pub. L. 104–156, § 2, July 5, 1996, 110 Stat. 1401.)

AMENDMENTS

1996—Pub. L. 104–156 reenacted section catchline without change and amended text generally, substituting present provisions for similar provisions relating to other audit requirements, including compliance and evaluation audits of individual Federal assistance programs, audits by State and local governmental entities, and provisions requiring Federal agencies to arrange for funding cost of conducting audits that are in addition to audits required by this chapter.

1994—Subsec. (a). Pub. L. 103–272 substituted ''extent'' for ''extend'' in second sentence.

### § 7504. Federal agency responsibilities and relations with non-Federal entities

(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

(1) monitor non-Federal entity use of Federal awards, and

(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

(c) The Director shall designate a Federal clearinghouse to—

(1) receive copies of all reporting packages developed in accordance with this chapter;

(2) identify recipients that expend $300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

(Added Pub. L. 98–502, § 2(a), Oct. 19, 1984, 98 Stat. 2333; amended Pub. L. 104–156, § 2, July 5, 1996, 110 Stat. 1402.)

AMENDMENTS

1996—Pub. L. 104–156 substituted ''Federal agency responsibilities and relations with non-Federal entities'' for ''Cognizant agency responsibilities'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

''(b) A cognizant agency shall—

''(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

''(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

''(3)(A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.''

### § 7505. Regulations

(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

(A) the cost of any audit which is—

(i) not conducted in accordance with this chapter; or

(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal

awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns, qualified HUBZone small business concerns, and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

(Added Pub. L. 98–502, § 2(a), Oct. 19, 1984, 98 Stat. 2333; amended Pub. L. 104–156, § 2, July 5, 1996, 110 Stat. 1403; Pub. L. 105–135, title VI, § 604(e)(3), Dec. 2, 1997, 111 Stat. 2634.)

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–135 substituted ''small business concerns, qualified HUBZone small business concerns, and'' for ''small business concerns and''.

1996—Pub. L. 104–156 reenacted section catchline without change and amended text generally, substituting present provisions for similar provisions relating to regulations, including implementation guidelines for regulations, criteria for determining appropriate charges to programs of Federal financial assistance for cost of audits, and guidelines to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals have opportunity to participate in contracts awarded to fulfill audit requirements of this chapter.

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.

GUIDELINES FOR ACCEPTANCE OF AUDITS BY STATE AND LOCAL GOVERNMENTS RECEIVING FEDERAL ASSISTANCE

Pub. L. 104–201, div. A, title VIII, § 808(c), Sept. 23, 1996, 110 Stat. 2607, provided that: ''The Director of the Office of Management and Budget shall issue guidelines to ensure that an audit of indirect costs performed by the Federal Government is accepted by State and local governments that receive Federal funds under contracts, grants, or other Federal assistance programs.''

### § 7506. Monitoring responsibilities of the Comptroller General

(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

(1) the committee that reported such bill or resolution; and

(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

(Added Pub. L. 98–502, § 2(a), Oct. 19, 1984, 98 Stat. 2333; amended Pub. L. 104–156, § 2, July 5, 1996, 110 Stat. 1403.)

AMENDMENTS

1996—Pub. L. 104–156 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

''(1) the committee that reported such bill or resolution; and

''(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

''(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).''

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.

### § 7507. Effective date

This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996.

(Added Pub. L. 98–502, § 2(a), Oct. 19, 1984, 98 Stat. 2334; amended Pub. L. 104–156, § 2, July 5, 1996, 110 Stat. 1404.)

AMENDMENTS

1996—Pub. L. 104–156 struck out ''; report'' after ''Effective date'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

''(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.''

## CHAPTER 77—ACCESS TO INFORMATION FOR DEBT COLLECTION

Sec.
7701. Taxpayer identifying number.

AMENDMENTS

1996—Pub. L. 104–134, title III, § 31001(i)(3)(A), Apr. 26, 1996, 110 Stat. 1321–365, which directed that the chapter title to chapter 77 of subtitle VI of this title be amended by substituting ''ACCESS TO INFORMATION FOR DEBT COLLECTION'' for ''LOAN REQUIREMENTS'', was executed by making the substitution in the chapter title of chapter 77 of subtitle V of this title, to reflect the probable intent of Congress.

### § 7701. Taxpayer identifying number

(a) In this section—

(1) ''included Federal loan program'' has the same meaning given that term in section 6103(*l*)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(*l*)(3)(C)).

(2) ''taxpayer identifying number'' means the identifying number required under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

(b) The head of an agency administering an included Federal loan program shall require a person applying for a loan under the program to provide that person's taxpayer identifying number.

(c)(1) The head of each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

(2) For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is—

(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

(B) an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

(C) a contractor of the agency;

(D) assessed a fine, fee, royalty or penalty by the agency; and

(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

(3) Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.

(4) For purposes of this subsection, a person shall not be treated as doing business with a Federal agency solely by reason of being a debtor under third party claims of the United States. The preceding sentence shall not apply to a debtor owing claims resulting from petroleum pricing violations or owing claims resulting from Federal loan or loan guarantee/insurance programs.

(d) Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services, and Department of Labor records to obtain names (including names of employees), name controls, names of employers, taxpayer identifying numbers, addresses (including addresses of employers), and dates of birth. The preceding sentence shall apply to the disclosure of taxpayer identifying numbers only if such disclosure is not otherwise prohibited by section 6103 of the Internal Revenue Code of 1986. The Department of Health and Human Services, and the Department of Labor shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.

(Added Pub. L. 103–272, § 4(f)(1)(Y)(i), July 5, 1994, 108 Stat. 1363; amended Pub. L. 104–134, title III, § 31001(i)(1), Apr. 26, 1996, 110 Stat. 1321–364.)

REFERENCES IN TEXT

Section 6103 of the Internal Revenue Code of 1986, referred to in subsecs. (a)(1) and (d), is classified to section 6103 of Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104–134 added subsecs. (c) and (d).

# SUBTITLE VI—MISCELLANEOUS


| Chap. | | Sec. |
|---|---|---|
| **91.** | **Government Corporations** | **9101** |
| **93.** | **Sureties and Surety Bonds** | **9301** |
| **95.** | **Government Pension Plan Protection** | **9501** |
| **97.** | **Miscellaneous** | **9701** |


AMENDMENTS

1996—Pub. L. 104–134, title III, § 31001(i)(3)(B), Apr. 26, 1996, 110 Stat. 1321–365, which directed that the table of chapters for subtitle VI of this title be amended by inserting a new item for chapter 77 ''Access to information for debt collection'' before the item for chapter 91, was executed to the table of chapters for subtitle V of this title by substituting ''Access to information for debt collection'' for ''Loan Requirements'' in item for chapter 77, to reflect the probable intent of Congress.

## CHAPTER 91—GOVERNMENT CORPORATIONS


Sec.
9101. Definitions.
9102. Establishing and acquiring corporations.
9103. Budgets of wholly owned Government corporations.
9104. Congressional action on budgets of wholly owned Government corporations.
9105. Audits.
9106. Management reports.
9107. Accounts.
9108. Obligations.
9109. Exclusion of a wholly owned Government corporation from this chapter.
9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers.


AMENDMENTS

1990—Pub. L. 101–576, title III, § 306(b), Nov. 15, 1990, 104 Stat. 2854, substituted ''Management'' for ''Audit''.

1986—Pub. L. 99–571, title II, § 201(b)(2), Oct. 28, 1986, 100 Stat. 3224, added item 9110.

### § 9101. Definitions

In this chapter—

(1) ''Government corporation'' means a mixed-ownership Government corporation and a wholly owned Government corporation.

(2) ''mixed-ownership Government corporation'' means—

(A) the Central Bank for Cooperatives.

(B) the Federal Deposit Insurance Corporation.

(C) the Federal Home Loan Banks.

(D) the Federal Intermediate Credit Banks.

(E) the Federal Land Banks.

(F) the National Credit Union Administration Central Liquidity Facility.

(G) the Regional Banks for Cooperatives.

(H) the Rural Telephone Bank when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(I) the Financing Corporation.

(J) the Resolution Trust Corporation.

(K) the Resolution Funding Corporation.

(3) ''wholly owned Government corporation'' means—

(A) the Commodity Credit Corporation.

(B) the Community Development Financial Institutions Fund.

(C) the Export-Import Bank of the United States.

(D) the Federal Crop Insurance Corporation.

(E) Federal Prison Industries, Incorporated.

(F) the Corporation for National and Community Service.

(G) the Government National Mortgage Association.

(H) the Overseas Private Investment Corporation.

(I) the Pennsylvania Avenue Development Corporation.

(J) the Pension Benefit Guaranty Corporation.

(K) the Rural Telephone Bank until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(L) the Saint Lawrence Seaway Development Corporation.

(M) the Secretary of Housing and Urban Development when carrying out duties and powers related to the Federal Housing Administration Fund.

(N) the Tennessee Valley Authority.

[(O) Repealed. Pub. L. 104–134, title III, § 3117(a), Apr. 26, 1996, 110 Stat. 1321–350.]

(P) the Panama Canal Commission.

(Q) the Millennium Challenge Corporation.

(R) the International Clean Energy Foundation.

(Pub. L. 97–258, §§ 1, 2(*l*)(1), Sept. 13, 1982, 96 Stat. 1041, 1062; Pub. L. 97–452, § 1(26), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 100–86, title III, § 303, Aug. 10, 1987, 101 Stat. 597; Pub. L. 101–73, title III, § 307(e), title V, §§ 501(d), 511(b)(1), Aug. 9, 1989, 103 Stat. 353, 394, 406; Pub. L. 102–486, title IX, § 902(b), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103–82, title II, § 202(e)(1), Sept. 21, 1993, 107 Stat. 888; Pub. L. 103–272, § 4(f)(1)(Z), July 5, 1994, 108 Stat. 1363; Pub. L. 103–325, title I, § 104(e), Sept. 23, 1994, 108 Stat. 2168; Pub. L. 104–106, div. C, title XXXV, § 3530, Feb. 10, 1996, 110 Stat. 642; Pub. L. 104–127, title VII, § 722(b), Apr. 4, 1996, 110 Stat. 1115; Pub. L. 104–134, title III, § 3117(a), Apr. 26, 1996, 110 Stat. 1321–350; Pub. L. 104–287, § 4(2), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105–134, title IV, § 415(d)(2), Dec. 2, 1997, 111 Stat. 2590; Pub. L. 107–171, title VI, § 6201(d)(6), May 13, 2002, 116 Stat. 419; Pub. L. 108–199, div. D, title VI, § 614(e)(2), Jan. 23, 2004, 118 Stat. 223; Pub. L. 110–140, title IX, § 925(c)(2), Dec. 19, 2007, 121 Stat. 1737.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9101(1) ..... | (no source). | |

HISTORICAL AND REVISION NOTES—CONTINUED
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9101(2) ..... | 31:856. | Dec. 6, 1945, ch. 557, § 201, 59 Stat. 600; July 26, 1956, ch. 741, § 201(a)(2), (3), 70 Stat. 667; Oct. 30, 1970, Pub. L. 91–518, § 804, 84 Stat. 1340; May 7, 1971, Pub. L. 92–12, § 4, 85 Stat. 37; Jan. 2, 1974, Pub. L. 93–236, §§ 202(g)(1), 301(f) (last sentence), 87 Stat. 992, 1005; Feb. 5, 1976, Pub. L. 94–210, § 612(b), 90 Stat. 108; Aug. 20, 1978, Pub. L. 95–351, § 301(a), 92 Stat. 513; Nov. 10, 1978, Pub. L. 95–630, § 1805, 92 Stat. 3724; Aug. 13, 1981, Pub. L. 97–35, § 396(h)(1), 95 Stat. 440. |
| 9101(3) ..... | 31:846. | Dec. 6, 1945, ch. 577, § 101, 59 Stat. 597; Aug. 10, 1948, ch. 832, § 501(b)(less proviso), 62 Stat. 1283; June 30, 1949, ch. 285, § 13, 63 Stat. 356; May 13, 1954, ch. 201, § 6, 68 Stat. 95; July 26, 1956, ch. 741, § 201(a)(1), 70 Stat. 667; June 30, 1958, Pub. L. 85–477, § 502(c), 72 Stat. 272; Oct. 4, 1961, Pub. L. 87–353, § 3(u), 75 Stat. 774; May 25, 1967, Pub. L. 90–19, § 4, 81 Stat. 20; Aug. 1, 1968, Pub. L. 90–448, §§ 807(e), 1719(d), 82 Stat. 544, 610; Dec. 30, 1969, Pub. L. 91–175, § 501, 83 Stat. 825; Oct. 27, 1972, Pub. L. 92–578, § 15, 86 Stat. 1274; Sept. 2, 1974, Pub. L. 93–406, § 4002(g)(3), 88 Stat. 1005. |

Clause (1) is included because a number of the provisions of the chapter apply to mixed-ownership and wholly owned Government corporations, and the term ''Government corporation'' provides a simple phrase to refer to both of those kinds of corporations.

In clause (2)(A), ''Amtrak'' is substituted for ''National Railroad Passenger Corporation'' to conform to section 103(1) of the Rail Passenger Service Act (45 U.S.C. 502(1)).

In clause (2)(I), the words ''when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))'' are added because of 7:943(c) and 950(a).

In clause (3), the words ''Regional Agricultural Credit Corporations'' are omitted because the corporations were merged with and liquidated by the Regional Agricultural Credit Corporation of Washington, D.C., which was dissolved on April 16, 1949. The words ''Farmers Home Corporation'' are omitted because the corporation never was activated. The words ''Federal Surplus Commodities Corporation'' are omitted because the corporation and the Division of Marketing and Marketing Agreements were consolidated into the Surplus Marketing Administration, which was merged into the Agricultural Marketing Administration, which was dissolved on March 14, 1947. The words ''Reconstruction Finance Corporation'' are omitted because the corporation was abolished on June 30, 1957. The words ''Defense Plant Corporation; Defense Supplies Corporation; Metals Reserve Company; Rubber Reserve Company'' are omitted because the corporations and companies were dissolved on July 1, 1945. The words ''War Damage Corporation'' are omitted because the corporation was terminated on January 22, 1947. The words ''the RFC Mortgage Company'' are omitted because the company was transferred to the Reconstruction Finance Corporation, which was abolished on June 30, 1957. The words ''Disaster Loan Corporation'' are omitted because the corporation was dissolved on July 1, 1945. The words ''Inland Waterways Corporation'' are omitted because the corporation was liquidated on July 19, 1963. The words ''Warrior River Terminal Company'' are omitted because the company was transferred to the Inland Waterways Corporation, which was liquidated on July 13, 1963. The words ''Virgin Islands Corporation'' are

omitted because the corporation was dissolved on July 1, 1966. The words ''United States Spruce Production Corporation'' are omitted because the corporation was dissolved on December 12, 1946. The words ''Institute of Inter-American Affairs'' are omitted because the institute was transferred to the Foreign Operations Administration, which was abolished on May 9, 1955. The words ''Institute of Inter-American Transportation'' are omitted because the institute was dissolved August 24, 1949. The words ''Inter-American Educational Foundation, Incorporated'' are omitted because the foundation was succeeded by the Institute of Inter-American Affairs, which was transferred to the Foreign Operations Administration, which was abolished on May 9, 1955. The words ''Inter-American Navigation Corporation'' are omitted because the corporation was dissolved on February 25, 1947. The words ''Prencinradio, Incorporated'' are omitted because Prencinradio, Incorporated was dissolved May 10, 1949. The words ''Cargoes, Incorporated'' are omitted because Cargoes, Incorporated was dissolved April 30, 1945. The words ''Export-Import Bank of the United States'' are substituted for ''Export-Import Bank of Washington'' because of section 1(a) of the Act of March 13, 1968 (Pub. L. 90–267, 82 Stat. 47). The words ''Petroleum Reserves Corporation'' are omitted because the corporation was transferred to the Office of Economic Warfare, which was consolidated into the Foreign Economic Administration, which was transferred to the Reconstruction Finance Corporation and changed to the War Assets Corporation. The War Assets Corporation was dissolved as soon as practicable after March 25, 1946. The words ''Rubber Development Corporation'' are omitted because the certificate of incorporation expired on June 30, 1947. The words ''U. S. Commercial Company'' are omitted because the company was liquidated after June 30, 1948. The words ''Smaller War Plants Corporation'' are omitted because the corporation was abolished on June 30, 1947. The words ''Defense Homes Corporation'' are omitted because the corporation was liquidated on June 30, 1948. The words ''Home Owners' Loan Corporation'' are omitted because the corporation was dissolved on February 3, 1954. The words ''United States Housing Corporation'' are omitted because the corporation was terminated on September 8, 1952. The words ''Panama Railroad Company'' (subsequently changed to ''Panama Canal Company'' by section 2(a)(2) of the Act of September 26, 1950 (ch. 1049, 64 Stat. 1038)), are omitted because of 22:ch. 51. The words ''Tennessee Valley Associated Cooperatives, Incorporated'' are omitted because the corporation was dissolved on January 18, 1950.

In clause (3)(J), the words ''until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))'' are added because of 7:943(c) and 950(a). Clause (L) is substituted for the ''Federal Housing Administration'' because of section 5 of the Department of Housing and Urban Development Act (Pub. L. 89–174, 79 Stat. 669).

1983 ACT

This amends 31:9101(2) because the National Consumer Cooperative Bank is no longer a mixed-ownership Government corporation. Section 396(h)(1) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 440) provided that the Bank would cease being a mixed-ownership Government corporation on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97–101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

AMENDMENTS

2007—Par. (3)(R). Pub. L. 110–140 added subpar. (R).

2004—Par. (3)(Q). Pub. L. 108–199 added subpar. (Q).

2002—Par. (3)(Q). Pub. L. 107–171 struck out subpar. (Q) which read: ''the Alternative Agricultural Research and Commercialization Corporation.''

1997—Par. (2). Pub. L. 105–134 redesignated subpars. (B) to (L) as (A) to (K), respectively, and struck out former subpar. (A) which read: ''Amtrak.''

1996—Par. (2)(J) to (M). Pub. L. 104–287, §4(2)(A), (B), redesignated subpars. (K) to (M) as (J) to (L), respectively, and struck out former subpar. (J), which read: ''the United States Railway Association''.

Par. (3)(B). Pub. L. 104–287, §4(2)(C), substituted a period for the semicolon at end.

Par. (3)(N). Pub. L. 104–127, §722(b)(1), and Pub. L. 104–287, §4(2)(D), amended par. (3) identically, redesignating subpar. (N), relating to Uranium Enrichment Corporation, as (O).

Par. (3)(O). Pub. L. 104–134, which directed the amendment of par. (3) of this section by striking out subpar. (N) as added by section 902(b) of Pub. L. 102–486, was executed by striking out subpar. (O), to reflect the probable intent of Congress, because of the redesignation of that subpar. (N) as (O) by section 722(b)(1) of Pub. L. 104–127 and section 4(2)(D) of Pub. L. 104–287. Subpar. (O) read as follows: ''the Uranium Enrichment Corporation.''

Pub. L. 104–127, §722(b)(1), and Pub. L. 104–287, §4(2)(D), amended par. (3) identically, redesignating subpar. (N), relating to Uranium Enrichment Corporation, as (O).

Par. (3)(P). Pub. L. 104–106 added subpar. (P).

Par. (3)(Q). Pub. L. 104–127, §722(b)(2), added subpar. (Q).

1994—Par. (2)(K). Pub. L. 103–272 substituted ''the'' for ''The''.

Par. (3)(B) to (N). Pub. L. 103–325 added subpar. (B) and redesignated former subpars. (B) to (M) as (C) to (N), respectively.

1993—Par. (3)(E). Pub. L. 103–82 added subpar. (E).

1992—Par. (3)(N). Pub. L. 102–486 added subpar. (N) relating to the Uranium Enrichment Corporation.

1989—Par. (2)(L). Pub. L. 101–73, §501(d), added subpar. (L).

Par. (2)(M). Pub. L. 101–73, §511(b)(1), added subpar. (M).

Par. (3)(E). Pub. L. 101–73, §307(e), struck out subpar. (E) relating to Federal Savings and Loan Insurance Corporation.

1987—Par. (2)(K). Pub. L. 100–86 added subpar. (K).

1983—Par. (2)(K). Pub. L. 97–452 struck out subpar. (K) which had already been struck out by Pub. L. 97–258. See 1982 Amendment note below.

1982—Par. (2)(K). Pub. L. 97–258, §2(*l*)(1), struck out subpar. (K) relating to National Consumer Cooperative Bank.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 3117(a) of Pub. L. 104–134 provided that the amendment made by that section was to take effect as of the privatization date [July 28, 1998]. For definition of that term, see section 2297h(9) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as an Effective Date note under section 12651 of Title 42, The Public Health and Welfare.

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.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2(*l*) of Pub. L. 97–258 provided that the amendment made by that section is effective Jan. 1, 1982.

DISSOLUTION OF PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Pennsylvania Avenue Development Corporation dissolved on or before Apr. 1, 1996, and assets, obligations,

indebtedness, and unobligated and unexpended balances of Corporation transferred, see Pub. L. 92–578, § 3, Oct. 27, 1972, 86 Stat. 1267, as amended, which was classified to section 872 of former Title 40, Public Buildings, Property, and Works, prior to repeal by Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS

The United States Railway Association was abolished effective Apr. 1, 1987, with all powers, duties, rights, and obligations of Association relating to Consolidated Rail Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) transferred to Secretary of Transportation on Jan. 1, 1987, and any securities of Corporation held by Association transferred to Secretary of Transportation on Oct. 21, 1986, see section 1341 of Title 45, Railroads.

COMPENSATION PRACTICES OF GOVERNMENT CORPORATIONS

For provisions relating to certain bonuses paid by mixed-ownership and wholly owned corporations listed in pars. (2) and (3) of this section, see Ex. Ord. No. 12976, Oct. 5, 1995, 60 F.R. 52829, set out as a note under section 4501 of Title 5, Government Organization and Employees.

## § 9102. Establishing and acquiring corporations

An agency may establish or acquire a corporation to act as an agency only by or under a law of the United States specifically authorizing the action.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1042.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9102 ..... | 31:869(a). | Dec. 6, 1945, ch. 557, § 304(a), 59 Stat. 602. |

The word ''agency'' is substituted for ''officer or agency of the Federal Government or by any Government corporation'' and ''agency or instrumentality of the United States'' because of section 101 of the revised title, for consistency, and because a Government corporation is an ''instrumentality of the United States Government''. The word ''establish'' is substituted for ''created, organized'' to eliminate unnecessary words. The words ''on or after December 6, 1945'' are omitted as executed. The words ''law of the United States'' are substituted for ''Act of Congress'' for consistency.

## § 9103. Budgets of wholly owned Government corporations

(a) Each wholly owned Government corporation shall prepare and submit each year to the President a business-type budget in a way, and before a date, the President prescribes by regulation for the budget program.

(b) The budget program for each wholly owned Government corporation shall—

(1) contain estimates of the financial condition and operations of the corporation for the current and following fiscal years and the condition and results of operations in the last fiscal year;

(2) contain statements of financial condition, income and expense, and sources and use of money, an analysis of surplus or deficit, and additional statements and information to make known the financial condition and operations of the corporation, including estimates of operations by major activities, administrative expenses, borrowings, the amount of United States Government capital that will be returned to the Treasury during the fiscal year, and appropriations needed to restore capital impairments; and

(3) provide for emergencies and contingencies and otherwise be flexible so that the corporation may carry out its activities.

(c) The President shall submit the budget programs submitted by wholly owned Government corporations (as changed by the President) as part of the budget submitted to Congress under section 1105 of this title. The President thereafter may submit changes in a budget program of a corporation at any time.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1042.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9103(a) ..... | 31:847(1st sentence). | Dec. 6, 1945, ch. 557, § 102, 59 Stat. 598; Sept. 12, 1950, ch. 946, § 105, 64 Stat. 834. |
| 9103(b) ..... | 31:847(2d–last sentences). | |
| 9103(c) ..... | 31:848. | Dec. 6, 1945, ch. 557, § 103, 59 Stat. 598. |

In subsection (a), 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) designated 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 a way, and before a date, the President prescribes by regulation for the budget program'' are substituted for ''under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented'' to eliminate unnecessary words.

In subsection (b), before clause (1), the words ''budget program'' are substituted for ''budget program shall be a business-type budget, or plan of operation'' for consistency and to eliminate unnecessary words. In clause (1), the words ''actual'' and ''completed'' are omitted as surplus. In clause (2), the words ''as are necessary or desirable'', ''types of'', ''together with'', and ''funds'' are omitted as surplus. In clause (3), the words ''as authorized by law'' are omitted as surplus.

In subsection (c), the words ''as changed'' are substituted for ''as modified, amended, or revised'' to eliminate unnecessary words. The word ''submit'' is substituted for ''transmitted'' for consistency. The word ''annual'' is omitted as surplus. The word ''thereafter'' is added for clarity. The text of 31:848 (last par.) is omitted as unnecessary.

## § 9104. Congressional action on budgets of wholly owned Government corporations

(a) Congress shall—

(1) consider budget programs for wholly owned Government corporations the President submits;

(2) make necessary appropriations authorized by law;

(3) make corporate financial resources available for operating and administrative expenses; and

(4) provide for repaying capital and the payment of dividends.

(b) This section does not—

(1) prevent a wholly owned Government corporation from carrying out or financing its activities as authorized under another law;

(2) affect section 26 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831y); or

(3) affect the authority of a wholly owned Government corporation to make a commitment without fiscal year limitation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1043.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9104(a) ..... | 31:849(1st sentence). | Dec. 6, 1945, ch. 557, § 104, 59 Stat. 598; restated July 30, 1947, ch. 358, § 307, 61 Stat. 584. |
| 9104(b) ..... | 31:849(2d, last sentences). | |

In subsection (a), the words ''budget programs for wholly owned Government corporations'' are substituted for ''Budget programs'' for clarity and consistency. The words ''legislation . . . be enacted'', ''as may be'', ''for expenditure'', ''corporate funds or other'', ''or limiting the use thereof'', ''as the Congress may determine'', and ''funds'' are omitted as surplus.

In subsection (b), the word ''existing'' is omitted as surplus. In clause (1), the word ''another'' is added for clarity. In clause (3), the words ''contracts or other'' and ''reference to'' are omitted as surplus.

## § 9105. Audits

(a)(1) The financial statements of Government corporations shall be audited by the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.), or under other Federal law, or by an independent external auditor, as determined by the Inspector General or, if there is no Inspector General, by the head of the corporation.

(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the head of the Government corporation, to the Chairman of the Committee on Government Operations of the House of Representatives, and to the Chairman of the Committee on Governmental Affairs of the Senate.

(4) The Comptroller General of the United States—

(A) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

(B) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the Government corporation which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General of the United States considers appropriate; and

(C) may audit a financial statement of a Government corporation 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 paragraph shall be in lieu of the audit otherwise required by paragraph (1) of this subsection. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

(5) A Government corporation shall reimburse the Comptroller General of the United States for the full cost of any audit conducted by the Comptroller General under this subsection, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General of the United States shall be deposited in the Treasury as miscellaneous receipts.

(b) Upon request of the Comptroller General of the United States, a Government corporation shall provide to the Comptroller General of the United States all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Government corporation and its auditor that the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

(c) Activities of the Comptroller General of the United States under this section are in lieu of any audit of the financial transactions of a Government corporation that the Comptroller General is required to make under any other law.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1043; Pub. L. 100–86, title IV, § 403, Aug. 10, 1987, 101 Stat. 609; Pub. L. 100–233, title VII, § 703, Jan. 6, 1988, 101 Stat. 1706; Pub. L. 100–399, title VI, § 602, Aug. 17, 1988, 102 Stat. 1006; Pub. L. 101–73, title V, § 511(b)(2), Aug. 9, 1989, 103 Stat. 406; Pub. L. 101–576, title III, § 305, Nov. 15, 1990, 104 Stat. 2853; Pub. L. 103–82, title II, § 202(e)(2), Sept. 21, 1993, 107 Stat. 888.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9105(a) ..... | 31:850(1st sentence 1st–16th, 30th–46th words, 4th–last sentences). | Dec. 6, 1945, ch. 557, § 105, 59 Stat. 599; Aug. 30, 1964, Pub. L. 88–518, § 2(a), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93–604, § 601(a), 88 Stat. 1962. |
| | 31:857(1st sentence 1st–26th, 39th–last words, 4th–last sentences). | Dec. 6, 1945, ch. 557, § 202, 59 Stat. 600; Aug. 30, 1964, Pub. L. 88–518, § 1(a), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93–604, § 601(c), 88 Stat. 1962. |
| 9105(b) ..... | 31:866(a)(last proviso), (b). | Dec. 6, 1945, ch. 557, § 301, 59 Stat. 601. |
| 9105(c) ..... | 31:850(1st sentence 17th–29th words, 2d, 3d sentences). | |
| | 31:857(1st sentence 27th–38th words, 2d, 3d sentences). | |
| 9105(d) ..... | 31:850(1st sentence proviso). | |
| 9105(e) ..... | 31:866(a)(words before 1st comma, 1st proviso), (d). | |
| 9105(f) ..... | 31:866(c). | |
| 9105(g) ..... | 31:866(a)(words between 1st comma and 1st proviso). | |

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

In subsection (a), the words ''rules and . . . of the United States'' are omitted as surplus. The words ''United States'' are added for consistency. The text of 31:850(4th sentence) and 857(4th sentence) and the words ''Effective July 1, 1974'' are omitted as executed.

In subsection (b)(1), the words ''pursuant to law'' are omitted as surplus.

In subsection (b)(2), the words ''may make a contract'' are substituted for ''is authorized in his discretion to employ by contract'' to eliminate unnecessary words.

In subsection (c), before clause (1), the words ''at the place or places'' and ''of the respective corporations'' are omitted as surplus. The words ''A Government cor-

poration shall'' are added for clarity. In clause (1), the words ''make available . . . for audit all records'' are substituted for ''The representatives of . . . shall have access to all books, accounts, financial records, reports, files, and all other papers'' for consistency and because of the restatement. The words ''things, or'' are omitted because they are included in ''property''. In clause (2), the word ''full'' is omitted as surplus.

Subsection (d) is substituted for 31:850(1st sentence proviso words before 7th comma) because of the restatement.

In subsection (e), the words ''The Comptroller General shall pay the cost of an audit'' are substituted for ''The expenses of auditing the financial transactions of wholly owned and mixed-ownership Government corporations as provided in sections 850 and 857 of this title shall be borne out of appropriations to the General Accounting Office'' to eliminate unnecessary words. The words ''full'' and ''otherwise . . . funds of any . . . be used to . . . of the offices'' are omitted as surplus. The words ''except the cost of such audits contracted for and undertaken prior to April 25, 1945'' are omitted as executed.

Subsection (g) is substituted for 31:866(a)(words between 1st comma and 1st proviso) for clarity and consistency.

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a)(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

1993—Subsec. (a)(1). Pub. L. 103–82 inserted '', or under other Federal law,'' before ''or by an independent''.

1990—Pub. L. 101–576 amended section generally. Prior to amendment, section required Comptroller General to audit financial transactions of Government corporations at least once every 3 years, the Federal Savings and Loan Insurance Corporation and Federal home loan banks each year, the Federal Asset Disposition Association and the Federal Agricultural Mortgage Corporation as necessary; suggested that Comptroller General in conducting an audit use reports of examinations of Government corporation by supervising administrative agency and authorized Comptroller General to contract for professional services; required audits to be conducted consistent with principles and procedures applicable to commercial corporate transactions; set forth responsibility for payment of audit cost, and authorized appropriations.

1989—Subsec. (a)(2). Pub. L. 101–73 struck out ''Federal Savings and Loan Insurance Corporation and'' after ''The Comptroller General shall audit the'' and inserted sentence at end requiring the Comptroller General to audit the Resolution Funding Corporation annually.

1988—Subsec. (a)(4). Pub. L. 100–399 substituted ''Corporation'' for ''Association'' in subpar. (B)(i).

Pub. L. 100–233 added par. (4).

1987—Subsec. (a)(3). Pub. L. 100–86 added par. (3).

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.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as an Effective Date note under section 12651 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective as if enacted immediately after enactment of Pub. L. 100–233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100–399, set out as a note under section 2002 of Title 12, Banks and Banking.

DEPOSIT OF FUNDS REIMBURSED TO COMPTROLLER GENERAL TO APPROPRIATION OF GOVERNMENT ACCOUNTABILITY OFFICE

Pub. L. 106–57, title II, Sept. 29, 1999, 113 Stat. 426, as amended by Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814, provided in part: ''That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the Government Accountability Office then available and remain available until expended''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–275, title II, Oct. 21, 1998, 112 Stat. 2450.
Pub. L. 105–55, title II, Oct. 7, 1997, 111 Stat. 1196.
Pub. L. 104–197, title II, Sept. 16, 1996, 110 Stat. 2411.
Pub. L. 104–53, title II, Nov. 19, 1995, 109 Stat. 534.
Pub. L. 103–283, title II, July 22, 1994, 108 Stat. 1440.

## § 9106. Management reports

(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

(2) A management report under this subsection shall include—

(A) a statement of financial position;

(B) a statement of operations;

(C) a statement of cash flows;

(D) a reconciliation to the budget report of the Government corporation, if applicable;

(E) a statement on internal accounting and administrative control systems by the head of the management of the corporation, consistent with the requirements for agency statements on internal accounting and administrative control systems under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97–255);

(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

(G) any other comments and information necessary to inform the Congress about the operations and financial condition of the corporation.

(b) A Government corporation shall provide the President, the Director of the Office of Management and Budget, and the Comptroller General of the United States a copy of the management report when it is submitted to Congress.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1044; Pub. L. 101–576, title III, § 306(a), Nov. 15, 1990, 104 Stat. 2854.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9106(a) ..... | 31:851(1st–3d sentences). | Dec. 6, 1945, ch. 557, § 106, 59 Stat. 599; Aug. 30, 1964, Pub. L. 88–518, § 2(b), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93–604, § 601(b), 88 Stat. 1962. |
| | 31:858(1st–3d sentences). | Dec. 6, 1945, ch. 557, § 203, 59 Stat. 600; Aug. 30, 1964, Pub. L. 88–518, § 1(b), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93–604, § 601(d), 88 Stat. 1963. |
| 9106(b) ..... | 31:851(last sentence). | |
| | 31:858(last sentence). | |

In subsection (a), before clause (1), the words ''of a Government corporation'' are added for clarity. In clause (5), the words ''program, expenditure, or other'', ''observed in the course of the audit'', and ''of law'' are omitted as surplus. In clause (6), the word ''statement'' is substituted for ''report'' for consistency. The words ''noted in the audit'' are omitted as surplus. The word ''made'' is substituted for ''accomplished'' for consistency. In clause (7), the word ''other'' is added for clarity because of the restatement. The words ''with respect thereto'' are omitted as surplus.

In subsection (b), the words ''The Comptroller General'' are added for clarity.

REFERENCES IN TEXT

The Federal Managers' Financial Integrity Act of 1982, referred to in subsec. (a)(2)(E), 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 section 3512 of this title. Provisions relating to statements on internal accounting and administrative control systems are restated in section 3512(d)(2) and (3) of this title.

AMENDMENTS

1990—Pub. L. 101–576 substituted ''Management'' for ''Audit'' in section catchline and amended text of section generally. Prior to amendment, section read as follows:

''(a) The Comptroller General shall submit to Congress a report on each audit of a Government corporation under section 9105 of this title not later than 6.5 months after the end of the last year covered by the audit. The report shall state the scope of the audit and include—

''(1) a statement (showing intercorporate relations) of assets, liabilities, capital, and surplus or deficit;

''(2) a statement of surplus or deficit analysis;

''(3) a statement of income and expenditures;

''(4) a statement of sources and the use of money;

''(5) specifically each financial transaction or undertaking the Comptroller General believes was carried out or made without authority of law;

''(6) comments and information the Comptroller General considers necessary to keep Congress informed about the operations and financial condition of the Government corporation, including a statement of impaired capital noticed and recommendations for the return of capital of the United States Government or the payment of dividends the Comptroller General believes should be made; and

''(7) other recommendations the Comptroller General considers advisable.

''(b) The Comptroller General shall give the President, the Secretary of the Treasury, and the Government corporation a copy of the report when it is submitted to Congress.''

## § 9107. Accounts

(a) With the approval of the Comptroller General, a Government corporation may consolidate its cash into an account if the cash will be expended as provided by law.

(b) The Secretary of the Treasury shall keep the accounts of a Government corporation. If the Secretary approves, a Federal reserve bank or a bank designated as a depositary or fiscal agent of the United States Government may keep the accounts. The Secretary may waive the requirements of this subsection.

(c)(1) Subsection (b) of this section does not apply to maintaining a temporary account of not more than $50,000 in one bank.

(2) Subsection (b) of this section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(3) Subsection (b) of this section does not apply to the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, or the Federal Land Banks. However, the head of each of those banks shall report each year to the Secretary the names of depositaries where accounts are kept. If the Secretary considers it advisable when an annual report is received, the Secretary may make a written report to the corporation, the President, and Congress.

(Pub. L. 97–258, §§ 1, 2(*l*)(2), Sept. 13, 1982, 96 Stat. 1044, 1062; Pub. L. 97–452, § 1(27), Jan. 12, 1983, 96 Stat. 2478.)

HISTORICAL AND REVISION NOTES
1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9107(a) ..... | 31:870. | Aug. 24, 1949, ch. 506, § 309, 63 Stat. 662. |
| 9107(b) ..... | 31:867(1st sentence less last proviso). | Dec. 6, 1945, ch. 577, § 302, 59 Stat. 601; July 26, 1956, ch. 741, § 201(a)(4), 70 Stat. 667; Aug. 20, 1978, Pub. L. 95–351, § 301(b), 92 Stat. 514; Aug. 13, 1981, Pub. L. 97–35, § 396(h)(2), 95 Stat. 440. |
| 9107(c)(1) | 31:867(1st sentence last proviso). | |
| 9107(c)(2) | 31:868(d)(1st sentence related to 31:867). | Dec. 6, 1945, ch. 577, § 303(d)(1st sentence related to § 302), 59 Stat. 602. |
| 9107(c)(3) | 31:867(last sentence). | |

In subsection (a), the words ''After June 30, 1949'' are omitted as executed. The words ''Government corporation'' are substituted for ''corporations or agencies subject to this chapter'' because of section 9101(1) of the revised title. The words ''notwithstanding the provisions of any other law'', ''or more . . . for banking and checking purposes'', and ''including amounts appropriated, from whatever source derived'' are omitted as surplus. The words ''if the cash will be expended as provided by law'' are substituted for 31:870(proviso) to eliminate unnecessary words.

In subsections (b) and (c), the words ''banking or checking'' are omitted as surplus.

In subsection (b), 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 ''wholly owned and mixed-ownership'' and ''under such conditions as he may determine'' are omitted as surplus.

In subsection (c)(1), the words ''establishment and'' and ''in any one bank'' are omitted as surplus.

In subsection (c)(3), the words ''head of each'' are added for consistency.

1983 ACT

This amends 31:9107(c)(3) and 9108(d)(2) because the National Consumer Cooperative Bank is no longer a

mixed-ownership Government corporation. Section 396(h)(2) and (3) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 440) provided that references to the Bank in sections 302 and 303(d)(2d sentence) of the Government Corporation Control Act would be deleted on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97–101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

AMENDMENTS

1983—Subsec. (c)(3). Pub. L. 97–452 struck out ''the National Consumer Cooperative Bank,'' after ''Regional Banks for Cooperatives,'' which had already been struck out by Pub. L. 97–258. See 1982 Amendment note below.

1982—Subsec. (c)(3). Pub. L. 97–258, § 2(*l*)(2), struck out ''the National Consumer Cooperative Bank,'' after ''Regional Banks for Cooperatives,''.

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.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2(*l*) of Pub. L. 97–258 provided that the amendment made by such section is effective Jan. 1, 1982.

## § 9108. Obligations

(a) Before a Government corporation issues obligations and offers obligations to the public, the Secretary of the Treasury shall prescribe—

(1) the form, denomination, maturity, interest rate, and conditions to which the obligations will be subject;

(2) the way and time the obligations are issued; and

(3) the price for which the obligations will be sold.

(b) A Government corporation may buy or sell a direct obligation of the United States Government, or an obligation on which the principal, interest, or both, is guaranteed, of more than $100,000 only when the Secretary approves the purchase or sale. The Secretary may waive the requirement of this subsection under conditions the Secretary may decide.

(c) The Secretary may designate an officer or employee of an agency to carry out this section if the head of the agency agrees.

(d)(1) This section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(2) Subsections (a) and (b) of this section do not apply to the Rural Telephone Bank (when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))), the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, and the Federal Land Banks. However, the head of each of those banks shall consult with the Secretary before taking action of the kind described in subsection (a) or (b). If agreement is not reached, the Secretary may make a written report to the corporation, the President, and Congress on the reasons for the Secretary's disagreement.

(Pub. L. 97–258, §§ 1, 2(*l*)(2), Sept. 13, 1982, 96 Stat. 1045, 1062; Pub. L. 97–452, § 1(27), Jan. 12, 1983, 96 Stat. 2478.)

HISTORICAL AND REVISION NOTES

1982 ACT

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9108(a) ..... | 31:868(a). | Dec. 6, 1945, ch. 557, § 303(less (d)(1st sentence related to § 302)), 59 Stat. 601; July 26, 1956, ch. 741, § 201(a)(4), 70 Stat. 667; May 7, 1971, Pub. L. 92–12, § 5, 85 Stat. 37; Aug. 20, 1978, Pub. L. 95–351, § 301(c), 92 Stat. 514; Aug. 13, 1981, Pub. L. 97–35, § 396(h)(3), 95 Stat. 441. |
| 9108(b) ..... | 31:868(b). | |
| 9108(c) ..... | 31:868(c). | |
| 9108(d) ..... | 31:868(d)(less 1st sentence related to 31:867). | |

In subsections (a) and (b), the words ''on or after December 6, 1945'' are omitted as executed. The words ''wholly owned or mixed-ownership'' are omitted because of section 9101(1) of the revised title.

In subsection (a), before clause (1), the word ''Before'' is substituted for ''which are'' for clarity. The words ''bonds, notes, debentures, and other similar'' are omitted as surplus. The words ''as have been'' are omitted as executed. In clause (1), the words ''terms and'' are omitted as surplus. The restatement of the source provisions does not affect other existing laws.

In subsection (b), the word ''Government'' is added for consistency. The words ''for its own account and in its own right and interest, at any one time aggregating'' and ''his approval with respect to any transaction or classes of transactions subject to the provisions of . . . for such period of time and'' are omitted as surplus.

In subsection (c), the word ''agency'' is substituted for ''Federal agency'' because of section 101 of the revised title. The words ''any of the functions vested in him by'' and ''for such purpose'' are omitted as surplus.

In subsection (d)(2), the words ''(when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)))'' are added because of 7:943(c) and 950(a). The words ''head of each'' are added for consistency. The words ''be required to'' are omitted as surplus.

1983 ACT

This amends 31:9107(c)(3) and 9108(d)(2) because the National Consumer Cooperative Bank is no longer a mixed-ownership Government corporation. Section 396(h)(2) and (3) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, 95 Stat. 440) provided that references to the Bank in sections 302 and 303(d)(2d sentence) of the Government Corporation Control Act would be deleted on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97–101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

AMENDMENTS

1983—Subsec. (d)(2). Pub. L. 97–452 struck out ''the National Consumer Cooperative Bank,'' after ''the Regional Banks for Cooperatives,'' which had already been struck out by Pub. L. 97–258. See 1982 Amendment note below.

1982—Subsec. (d)(2). Pub. L. 97–258, § 2(*l*)(2), struck out ''the National Consumer Cooperative Bank,'' after ''Regional Banks for Cooperatives,''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–452 effective Sept. 13, 1982, see section 2(i) of Pub. L. 97–452, set out as a note under section 3331 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2(*l*) of Pub. L. 97–258 provided that the amendment made by such section is effective Jan. 1, 1982.

### §9109. Exclusion of a wholly owned Government corporation from this chapter

When the President considers it practicable and in the public interest, the President shall include in the budget submitted to Congress under section 1105 of this title a recommendation that a wholly owned Government corporation be deemed to be an agency (except a corporation) under chapter 11 of this title and for fiscal matters. If Congress approves the recommendation, the corporation is deemed to be an agency (except a corporation) under chapter 11 and for fiscal matters for fiscal years beginning after the fiscal year of approval and is not subject to this chapter. The corporate entity is not affected by this section.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1045.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9109 ..... | 31:852. | Dec. 6, 1945, ch. 577, §107, 59 Stat. 599. |

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. The words ''with the approval of the President'' are omitted because of the restatement. The word ''considers'' is substituted for ''deemed'' for consistency. The words ''in connection with the budget program of such corporation'' are omitted as surplus. The words ''submitted to Congress under section 1105 of this title'' are added for clarity. The words ''deemed to be'' are substituted for ''treated . . . as if it were'' for consistency. The word ''agency'' is substituted for ''Government agency'' and ''establishment'' because of section 101 of the revised title and for consistency. The words ''if it were'', ''appropriations, expenditures, receipts, accounts, and other'', and ''in connection with the budget program for any fiscal year'' are omitted as surplus. The words ''deemed to be'' are substituted for ''regarded as'' for consistency.

### §9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers

(a) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations that are government securities described in subparagraph (B) or (C) of section 3(a)(42) of the Securities Exchange Act of 1934. 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.

(b) Violation of a regulation prescribed under subsection (a) 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.

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

(d) The Secretary shall, prior to adopting regulations under this section, 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 section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

(e) As used in this subsection—

(1) ''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).

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

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

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

(Added Pub. L. 99–571, title II, §201(b)(1), Oct. 28, 1986, 100 Stat. 3223; amended Pub. L. 103–272, §4(f)(1)(AA), July 5, 1994, 108 Stat. 1363.)

REFERENCES IN TEXT

Section 3(a)(34)(G), (42)(B), (C), (43), (44) of the Securities Exchange Act of 1934, referred to in subsecs. (a) and (e)(2)–(4), is classified to section 78c(a)(34)(G), (42)(B), (C), (43), (44) of Title 15, Commerce and Trade.

Section 8(b) or 8(c) of the Federal Deposit Insurance Act, referred to in subsec. (b), 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. (b), 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. (b), 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. (b), is classified to section 1786(e), (f) of Title 12.

Clauses (i) through (vi) of subparagraph [section] 19(b)(1)(A) of the Federal Reserve Act, referred to in subsec. (e)(1), are classified to section 461(b)(1)(A)(i) to (vi) of Title 12.

The International Banking Act of 1978, referred to in subsec. (e)(1), 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,

[1] See References in Text note below.

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.

AMENDMENTS

1994—Subsec. (e)(1). Pub. L. 103–272 substituted ''section'' for ''subparagraph''.

EFFECTIVE DATE; PROMULGATION OF REGULATIONS

Section 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 a note under section 78*o*–5 of Title 15, Commerce and Trade.

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.

## CHAPTER 93—SURETIES AND SURETY BONDS

Sec.
9301. Definitions.
9302. Prohibition against surety bonds for United States Government personnel.
9303. Use of Government obligations instead of surety bonds.[1]
9304. Surety corporations.
9305. Authority and revocation of authority of surety corporations.
9306. Surety corporations acting outside area of incorporation and place of principal office.
9307. Civil actions and judgments against surety corporations.
9308. Civil penalty.
9309. Priority of sureties.

### § 9301. Definitions

In this chapter—

(1) ''person'' means an individual, a trust, an estate, a partnership, and a corporation.

(2) ''eligible obligation'' means any security designated as acceptable in lieu of a surety bond by the Secretary of the Treasury.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1046; Pub. L. 109–351, title IX, § 901(a), Oct. 13, 2006, 120 Stat. 2007.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9301 ..... | 6:15(10th, last sentences). | |

In clause (1), the words after the semicolon are omitted as unnecessary because of the restatement.

Clause (2) is substituted for 6:15(last sentence) for consistency and to eliminate unnecessary words.

AMENDMENTS

2006—Par. (2). Pub. L. 109–351 amended par. (2) generally. Prior to amendment, par. (2) read as follows: '' 'Government obligation' means a public debt obligation of the United States Government and an obligation whose principal and interest is unconditionally guaranteed by the Government.''

[1] Section catchline amended by Pub. L. 109–351 without corresponding amendment of chapter analysis.

### § 9302. Prohibition against surety bonds for United States Government personnel

An agency (except a mixed-ownership Government corporation) may not require or obtain a surety bond for a member of the uniformed services or an officer or employee of the United States Government in carrying out official duties. This section does not affect the personal financial liability of the member, officer, or employee.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1046.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9302 ..... | 31:1201. | June 6, 1972, Pub. L. 92–310, § 101, 86 Stat. 201. |

The words ''agency (except a mixed-ownership Government corporation)'' are substituted for 31:1201(c)(words before last comma) and ''agency of the Federal Government'' because of section 101 of the revised title and for consistency. The words ''member of the uniformed services or an officer or employee of the United States Government'' are substituted for ''civilian employees or military personnel'' for consistency with other titles of the United States Code. The words ''in carrying out official duties'' are substituted for ''in connection with the performance of their official duties'' to eliminate unnecessary words and because of the restatement. The words ''to the Federal Government'' are omitted as surplus. The words ''member, officer, or employee'' are substituted for ''employees and personnel'' because of the restatement.

### § 9303. Use of eligible obligations instead of surety bonds

(a) If a person is required under a law of the United States to give a surety bond, the person may give an eligible obligation as security instead of a surety bond. The obligation shall—

(1) be given to the official having authority to approve the surety bond;

(2) as determined by the Secretary of the Treasury, have a market value that is equal to or greater than the amount of the required surety bond; and

(3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b)(1) An official receiving an eligible obligation under subsection (a) of this section may deposit it with—

(A) the Secretary of the Treasury;

(B) a Federal reserve bank; or

(C) a depositary designated by the Secretary.

(2) The Secretary, bank, or depositary shall issue a receipt that describes the obligation deposited.

(c) Using an eligible obligation instead of a surety bond for security is the same as using—

(1) a personal or corporate surety bond;

(2) a certified check;

(3) a bank draft;

(4) a post office money order; or

(5) cash.

(d) When security is no longer required, an eligible obligation given instead of a surety bond shall be returned to the person giving the obli-

gation. If a person, supplying labor or material to a contractor defaulting under sections 3131 and 3133 of title 40, files with the United States Government the application and affidavit provided under section 3133(a) of title 40, the Government—

(1) may return to the contractor the eligible obligation given as security (or proceeds of the eligible obligation given) under sections 3131 and 3133 of title 40 only after the 90-day period for bringing a civil action under section 3133(b) of title 40; and

(2) if a civil action is brought in the 90-day period, shall hold the eligible obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the—

(1) priority of a claim of the Government against an eligible obligation given under this section;

(2) right or remedy of the Government for default on an obligation provided under—

(A) sections 3131 and 3133 of title 40; or

(B) this section;

(3) authority of a court over an eligible obligation given as security in a civil action; and

(4) authority of an official of the Government authorized by another law to receive an eligible obligation as security.

(f) To avoid frequent substitution of eligible obligations, the Secretary may prescribe regulations limiting the effect of this section to an eligible obligation maturing more than one year after the date the obligation is given as security.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1046; Pub. L. 107–217, § 3(h)(9), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108–178, § 4(f)(2), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109–351, title IX, § 901(b), (c), Oct. 13, 2006, 120 Stat. 2007.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9303(a) ..... | 6:15(1st sentence). | |
| 9303(b) ..... | 6:15(3d sentence). | |
| 9303(c) ..... | 6:15(2d sentence). | |
| 9303(d) ..... | 6:15(4th, 5th sentences). | |
| 9303(e) ..... | 6:15(6th, 8th sentences). | |
| 9303(f) ..... | 6:15(7th, 9th, 11th sentences). | |

In subsection (a), before clause (1), the words ''If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond'' are substituted for ''Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called 'penal bond', with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security . . . United States Liberty bonds or other bonds or notes of the United States'' to eliminate unnecessary words and for consistency. The words ''The obligation shall be'' are added because of the restatement. Clause (3) is substituted for ''together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond'' to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ''An official receiving a Government obligation under subsection (a) of this section may deposit it with'' are substituted for ''The bonds or notes deposited hereunder, and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with'' for clarity and consistency and to eliminate unnecessary words. Clause (A) is substituted for ''Treasurer of the United States'' because of the source provisions restated in section 321(c) of the revised title. In clause (C), the words ''duly'' and ''for that purpose'' are omitted as unnecessary.

Subsection (b)(2) is substituted for ''which shall issue receipt therefor, describing such bonds or notes so deposited'' to eliminate unnecessary words and for consistency.

In subsection (c), before clause (1), the words ''Using a Government obligation instead of a surety bond for security is the same as using'' are substituted for ''The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as'' to eliminate unnecessary words and for consistency. In clause (1), the word ''personal'' is substituted for ''individual'' for consistency.

Subsection (d) is substituted for 6:15(4th, 5th sentences) to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

In subsection (e), before clause (1), the words ''This section does not'' are substituted for ''Nothing herein contained shall'' for clarity and consistency. The words ''or impair'' are omitted as being covered by ''affect''. Clause (1) is substituted for ''the bonds or notes deposited'' for clarity and consistency. In clause (2), the words ''of said penal bond'' are omitted because of the restatement. In clause (3), the words ''civil action'' are substituted for ''judicial proceedings'' for consistency. In clause (4), the word ''official'' is substituted for ''administrative officer'' for consistency.

In subsection (f), the words ''in order'' are omitted as unnecessary. The words ''Government obligations'' are substituted for ''securities'' and for ''bonds and notes of the United States'' for consistency. The words ''the Secretary may prescribe regulations limiting'' are substituted for ''such rules and regulations may limit'' for clarity and consistency. The words ''in appropriate classes of cases'' are omitted as unnecessary. The words ''the obligation is given'' are substituted for ''of deposit of such bonds'' for clarity and consistency. The text of 6:15(7th sentence) is omitted as executed. The text of 6:15(9th sentence) is omitted because of section 321 of the revised title.

AMENDMENTS

2006—Pub. L. 109–351, § 901(c)(1), substituted ''eligible obligations'' for ''Government obligations'' in section catchline.

Subsec. (a). Pub. L. 109–351, § 901(b), (c)(3), substituted ''an eligible obligation'' for ''a Government obligation'' in introductory provisions and amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''be in an amount equal at par value to the amount of the required surety bond; and''.

Subsecs. (b) to (e). Pub. L. 109–351, § 901(c)(3), (4), substituted ''an eligible obligation'' for ''a Government obligation'' and ''the eligible obligation'' for ''the Government obligation'' wherever appearing.

Subsec. (f). Pub. L. 109–351, § 901(c)(2), (3), substituted ''eligible obligations'' for ''Government obligations'' and ''an eligible obligation'' for ''a Government obligation''.

2003—Subsec. (d)(1). Pub. L. 108–178 struck out comma after ''sections 3131 and 3133 of title 40''.

2002—Subsec. (d). Pub. L. 107–217, § 3(h)(9)(A), in introductory provisions substituted ''sections 3131 and 3133 of title 40'' for ''the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)'' and ''section 3133(a) of title 40'' for ''section 3 of the Act (40 U.S.C. 270c)''.

Subsec. (d)(1). Pub. L. 107–217, § 3(h)(9)(B), substituted ''sections 3131 and 3133 of title 40'' for ''the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C.

270a–270d)'' and ''section 3133(b) of title 40'' for ''section 2 of the Act (40 U.S.C. 270b)''.

Subsec. (e)(2)(A). Pub. L. 107–217, §3(h)(9)(C), substituted ''sections 3131 and 3133 of title 40'' for ''the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

### § 9304. Surety corporations

(a) When a law of the United States Government requires or permits a person to give a surety bond through a surety, the person satisfies the law if the surety bond is provided for the person by a corporation—

(1) incorporated under the laws of—

(A) the United States; or

(B) a State, the District of Columbia, or a territory or possession of the United States;

(2) that may under those laws guarantee—

(A) the fidelity of persons holding positions of trust; and

(B) bonds and undertakings in judicial proceedings; and

(3) complying with sections 9305 and 9306 of this title.

(b) Each surety bond shall be approved by the official of the Government required to approve or accept the bond. The official may not require that the surety bond be given through a guaranty corporation or through any particular guaranty corporation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1047.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9304 ..... | 6:6. | |

Subsection (a) is substituted for 6:6(1st sentence) to eliminate unnecessary words and for clarity and consistency. Clause (3) is added for clarity.

In subsection (b), the words ''Each surety bond'' are substituted for ''Such recognizance, stipulation, bond, or undertaking'', the words ''official of the Government'' are substituted for ''head of department, court, judge, officer, board, or body executive, legislative, or judicial'', and the word ''official'' is substituted for ''officer or person having the approval of any bond'', to eliminate unnecessary words and for clarity and consistency.

### § 9305. Authority and revocation of authority of surety corporations

(a) Before becoming a surety under section 9304 of this title, a surety corporation must file with the Secretary of the Treasury—

(1) a copy of the articles of incorporation of the corporation; and

(2) a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(b) The Secretary may authorize in writing a surety corporation to provide surety bonds under section 9304 of this title if the Secretary decides that—

(1) the articles of incorporation of the corporation authorize the corporation to do business described in section 9304(a)(2) of this title;

(2) the corporation has paid-up capital of at least $250,000 in cash or its equivalent; and

(3) the corporation is able to carry out its contracts.

(c) A surety corporation authorized under subsection (b) of this section to provide surety bonds shall file with the Secretary each January, April, July, and October a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(d) The Secretary—

(1) shall revoke the authority of a surety corporation to do new business if the Secretary decides the corporation is insolvent or is in violation of this section or section 9304 or 9306 of this title;

(2) may investigate the solvency of a surety corporation at any time; and

(3) may require additional security from the person required to provide a surety bond if the Secretary decides that a surety corporation no longer is sufficient security.

(e) A surety corporation providing a surety bond under section 9304 of this title may not provide any additional bond under that section if—

(1) the corporation does not pay a final judgment or order against it on the bond; and

(2) no appeal or stay of the judgment or order is pending 30 days after the judgment or order is entered.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1047.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9305(a), (b). | 6:8. | |
| 9305(c), (d). | 6:9. | |
| 9305(e) ..... | 6:11. | |

In subsection (a), before clause (1), the words ''Before becoming a surety under section 9304 of this title, a surety corporation must file'' are substituted for ''Every company, before transacting any business under sections 6 to 13 of this title, shall deposit'' for consistency and as being more precise. In clause (1), the words ''charter or'' are omitted as being included in ''articles of incorporation''.

Subsection (b) is substituted for 6:8(2d sentence) for clarity and consistency and because of the restatement.

In subsection (c), the words ''A surety corporation authorized under subsection (b) of this section to provide surety bonds'' are substituted for ''Every such company'' for clarity. The words ''as is required by section 8 of this title'' are omitted as unnecessary because of the restatement.

In subsection (d)(1), the word ''shall'' is substituted for ''shall have the power, and it shall be his duty, to'' to eliminate unnecessary words. The words ''under sections 6 to 13 of this title'' are omitted as unnecessary because of the restatement. The words ''conducting its business'' are omitted as surplus. In clause (3), the words ''that . . . be given at any time'' are omitted as surplus. The words ''from the person required to provide a surety bond'' are substituted for ''by any principal'' for clarity.

Subsection (e) is substituted for 6:11 to eliminate unnecessary words, for clarity and consistency, and because of the restatement.

### § 9306. Surety corporations acting outside area of incorporation and place of principal office

(a) A surety corporation may provide a surety bond under section 9304 of this title in a judicial district outside the State, the District of Columbia, or a territory or possession of the United States under whose laws it was incorporated and in which its principal office is located only if the corporation has a resident agent for service of process for that district. The resident agent—

(1) may be an official of the State, the District of Columbia, the territory or possession in which the court sits who is authorized or appointed under the law of the State, District, territory or possession to receive service of process on the corporation; or

(2) may be an individual who resides in the jurisdiction of the district court for the district in which a surety bond is to be provided and who is appointed by the corporation as provided in subsection (b)[1]

(b) If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the surety corporation shall file a certified copy of the power of attorney with the clerk of the district court for the district in which a surety bond is to be given at each place the court sits. A copy of the power of attorney may be used as evidence in a civil action under section 9307 of this title.

(c)(1) If a resident agent is removed, resigns, dies, or becomes disabled, the surety corporation shall appoint another agent as described in this section.

(2) Until an appointment is made under paragraph (1) of this subsection or during an absence of an agent from the district in which the surety bond is given, service of process may be made on the clerk of the court in which a civil action against the corporation is brought. The official serving process on the clerk of the court—

(A) immediately shall mail a copy of the process to the corporation; and

(B) shall state in the official's return that the official served the process on the clerk of the court.

(3) A judgment or order of a court entered or made after service of process under this section is as valid as if the corporation were served in the judicial district of the court.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1048; Pub. L. 106–113, div. B, § 1000(a)(9) [title V, § 5007], Nov. 29, 1999, 113 Stat. 1536, 1501A–594.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9306 ..... | 6:7. | |

In subsection (a), before clause (1), the words ''in a judicial district'' are added for clarity. The word ''outside'' is substituted for ''beyond the limits'' to eliminate unnecessary words. The words ''territory or possession of the United States'' are substituted for ''Territory'' for consistency in the revised title. The word ''resident'' is added for consistency.

In subsection (b), the words ''duly . . . and authenticated'' are omitted as surplus. The words ''in which a surety bond is to be given'' are added for clarity and because of the restatement. The words ''the court sits'' are substituted for ''where a term of such court is or may be held'', and the words ''A copy of the power of attorney may be used as evidence in a civil action'' are substituted for ''which copy, or a certified copy thereof, shall be legal evidence in all controversies'', to eliminate unnecessary words and for clarity and consistency.

In subsection (c)(1), the words ''a resident'' are substituted for ''any such'' for clarity. The words ''becomes disabled'' are substituted for ''become insane, or otherwise incapable of acting'' to eliminate unnecessary words. The words ''the surety corporation shall'' are substituted for ''it shall be the duty of such company to'' to eliminate unnecessary words and for consistency. The words ''in his place'' are omitted as unnecessary.

In subsection (c)(2), before clause (A), the words ''the district in which the surety bond is given'' are substituted for ''such district'', and the words ''a civil action against the corporation'' are substituted for ''such suit'', for clarity and consistency. The words ''with like effect as upon an agent appointed by the company'' are omitted as unnecessary. The words ''official serving'' are substituted for ''officer executing such'' for consistency. Clause (2) is substituted for ''state such fact in his return'' for clarity.

In subsection (c)(3), the words ''decree or'' are omitted as being included in ''order''. The words ''and binding'' are omitted as being included in ''valid''. The words ''as if the corporation were served in the judicial district of the court'' are substituted for ''on such company as if served with process in said district'' for clarity and consistency.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–113, § 1000(a)(9) [title V, § 5007(1)], substituted ''has a resident agent for service of process for that district. The resident agent—'' and pars. (1) and (2) for ''designates a person by written power of attorney to be the resident agent of the corporation for that district. The designated person—

''(1) may appear for the surety corporation;

''(2) may receive service of process for the corporation;

''(3) must reside in the jurisdiction of the district court for the district in which a surety bond is to be provided; and

''(4) must be a domiciliary of the State, the District of Columbia, territory, or possession in which the court sits.''

Subsec. (b). Pub. L. 106–113, § 1000(a)(9) [title V, § 5007(2)], substituted ''If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the'' for ''The''.

### § 9307. Civil actions and judgments against surety corporations

(a)(1) A surety corporation providing a surety bond under section 9304 of this title may be sued in a court of the United States having jurisdiction of civil actions on surety bonds in—

(A) the judicial district in which the surety bond was provided; or

(B) the district in which the principal office of the corporation is located.

(2) Under sections 9304–9308 of this title, a surety bond is deemed to be provided in the district—

(A) in which the principal office of the surety corporation is located;

(B) to which the surety bond is returnable;

(C) in which the surety bond is filed; and

(D) in which the person required to provide a surety bond resided when the bond was provided.

[1] So in original. Probably should be followed by a period.

(b) In a proceeding against a surety corporation providing a surety bond under section 9304 of this title, the corporation may not deny its power to provide a surety bond or to assume liability.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1049.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9307(a) ..... | 6:10. | |
| 9307(b) ..... | 6:12. | |

In subsection (a)(1), before clause (A), the words ''corporation providing a surety bond'' are substituted for ''company doing business'' for consistency. The words ''in respect thereof'' are omitted as surplus. The words ''civil actions on surety bonds'' are substituted for ''actions or suits upon such recognizance, stipulation, bond, or undertaking'' for consistency. In clause (A), the words ''the surety bond was provided'' are substituted for ''such recognizance, stipulation, bond, or undertaking was made or guaranteed'' for consistency.

In subsection (a)(2), before clause (A), the words ''a surety bond is deemed to be provided'' are substituted for ''such recognizance, stipulation, bond, or undertaking shall be treated as made or guaranteed'' for consistency. In clause (A), the words ''principal office of the surety corporation'' are substituted for ''office'' for clarity and consistency. In clause (D), the words ''person required to provide a surety bond resided when the bond was provided'' are substituted for ''principal in such recognizance, stipulation, bond, or undertaking resided when it was made or guaranteed'' for consistency.

Subsection (b) is substituted for 6:12 to eliminate unnecessary words and for consistency.

### § 9308. Civil penalty

A surety corporation is liable to the United States Government for a civil penalty of at least $500 but not more than $5,000 for violating section 9304, 9305, or 9306 of this title. A civil action under this section may be brought in a judicial district in which a civil action may be brought against the corporation under section 9307 of this title. A penalty imposed under this section does not affect the validity of a contract made by the surety corporation.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1049.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9308 ..... | 6:13. | |

The section is substituted for 6:13 for clarity and consistency.

### § 9309. Priority of sureties

When a person required to provide a surety bond given to the United States Government is insolvent or dies having assets insufficient to pay debts, the surety, or the executor, administrator, or assignee of the surety paying the Government the amount due under the bond—

(1) has the same priority to amounts from the assets and estate of the person as are secured for the Government; and

(2) personally may bring a civil action under the bond to recover amounts paid under the bond.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1049.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9309 ..... | 31:193. | R.S. § 3468. |

In the section, before clause (1), the words ''person required to provide a surety bond'' are substituted for ''principal in any bond'' for clarity and consistency. The words ''dies having assets insufficient to pay debts'' are substituted for ''whenever, such principal being deceased, his estate and effects which come to the hands of his executor, administrator, or assignee, are insufficient for the payment of his debts'' to eliminate unnecessary words. The words ''and, in either of such cases'', ''on the bond'', and ''such surety, his executor, administrator, or assignee'' are omitted as unnecessary. Clause (1) is substituted for ''shall have the like priority for the recovery and receipt of the moneys out of the estate and effects of such insolvent or deceased principal as is secured to the United States'' to eliminate unnecessary words and for clarity. In clause (2), the words ''and maintain'' are omitted as surplus. The words ''civil action'' are substituted for ''suit'' for consistency. The words ''in law or equity'' are omitted as surplus.

## CHAPTER 95—GOVERNMENT PENSION PLAN PROTECTION

Sec.
9501. Purpose.
9502. Definitions.
9503. Reports about Government pension plans.
9504. Review and recommendations.

### § 9501. Purpose

The purpose of this chapter is to protect the interests of the United States and of the participants and their beneficiaries in Government pension plans by requiring complete disclosure of the financial condition of those plans.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1050.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9501 ..... | 31:68. | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 120; added Nov. 4, 1978, Pub. L. 95–595, § 1, 92 Stat. 2541. |

The words ''United States'' are substituted for ''Nation'' for clarity and consistency. The words ''and certain other pension plans'' are omitted as unnecessary.

### § 9502. Definitions

In this chapter—

(1) ''Government pension plan''—

(A) means a pension, annuity, retirement, or similar plan (except a plan covered under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or a plan or program financed by contributions required under chapter 21 or 22 of the Internal Revenue Code of 1986 (26 U.S.C. 3101 et seq., 3201 et seq.)) established or maintained by an agency, for any of its officers or employees, regardless of the number of participants covered by the plan; and

(B) includes—

(i) the Civil Service Retirement System.

(ii) the Coast Guard Retirement System.

(iii) the Commissioned Corps of the Public Health Service Retirement System.

(iv) the Farm Credit District Retirement Plans.

(v) the Federal Home Loan Bank Board Retirement Systems.

(vi) the Federal Home Loan Mortgage Corporation Plan.

(vii) the Federal Reserve Employees Retirement Plans.

(viii) the Foreign Service Retirement and Disability System.

(ix) judicial plans.

(x) the Military Retirement System.

(xi) the National Oceanic and Atmospheric Administration Retirement System.

(xii) nonappropriated fund plans.

(xiii) the Tennessee Valley Authority Retirement System.

(2) ''plan year'' means the calendar, policy, or fiscal year chosen by the Government pension plan on which the records of the plan are kept.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1050; 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)* |
|---|---|---|
| 9502(1) ..... | 31:68c. | Sept. 12, 1950, ch. 946, 64 Stat. 832, §§ 123, 124; added Nov. 4, 1978, Pub. L. 95–595, § 1, 92 Stat. 2542. |
| 9502(2) ..... | 31:68d. | |

In clause (1), before subclause (A), the word ''Federal'' is omitted as unnecessary. In subclause (A), the words ''whether or not such plan is an employee pension benefit plan within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(2)]'' are omitted as surplus. The words ''an agency'' are substituted for ''Government of the United States, or any agency or instrumentality thereof'' because of section 101 of the revised title. In subclause (B), before subclause (i), the words ''but is not limited to'' are omitted as surplus. The text of 31:68c(b)(words before colon) is omitted as unnecessary because of the restatement.

In clause (2), 31:68d(1st sentence) is omitted as executed. The definition in 31:68d(last sentence) is made applicable to the chapter for clarity because the defined term is used in 9503(a)(1)(B) of the revised title.

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in par. (1)(A), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1986—Par. (1)(A). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

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.

## § 9503. Reports about Government pension plans

[(a) Repealed. Pub. L. 105–362, title XV, § 1501(a), Nov. 10, 1998, 112 Stat. 3294.]

(b) This chapter does not prevent a Government pension plan from using the services of an enrolled actuary employed by an agency administering the plan.

(c) The requirements of this section are satisfied with respect to the Thrift Savings Plan described under subchapter III of chapter 84 of title 5, by preparation and transmission of the report described under section 8439(b) of such title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1050; Pub. L. 104–66, title II, § 2081, Dec. 21, 1995, 109 Stat. 729; Pub. L. 105–362, title XV, § 1501(a), Nov. 10, 1998, 112 Stat. 3294.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9503(a) ..... | 31:68a(a), (b). | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 121; added Nov. 4, 1978, Pub. L. 95–595, § 1, 92 Stat. 2541. |
| 9503(b) ..... | 31:68a(c). | |

In subsection (a), before clause (1), the words ''Notwithstanding any other provision of law or any administrative determination to the contrary . . . Federal'' are omitted as unnecessary. The words ''and each plan described in section 68c(b) of this title'' are omitted as unnecessary because of the restatement. In clause (1), before subclause (A), the words ''required by such section'' are omitted as unnecessary because of the restatement. In subclause (A), the word ''information'' is substituted for ''information and data'' because it is inclusive and for consistency. In clause (4), the words ''and shall not supersede'' are omitted as surplus. In clause (5), the words ''the Comptroller General deems'' are omitted as unnecessary. The words ''under section 1023 of title 29'' are omitted as unnecessary because of the restatement.

In subsection (b), the words ''This chapter does not prevent'' are substituted for ''Nothing in this chapter shall preclude'' for clarity. The words ''or agencies'' are omitted as unnecessary because of 1:1.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–362 struck out subsec. (a) which required Government pension plans to be subject to 29 U.S.C. 1023, except for officers or employees of the Central Intelligence Agency unless the President specifically approves application of the requirements of section 1023 in writing for such officers and employees.

1995—Subsec. (c). Pub. L. 104–66 added subsec. (c).

EX. ORD. NO. 12177. DELEGATION OF FUNCTIONS TO DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET AND SECRETARY OF THE TREASURY

Ex. Ord. No. 12177, Dec. 10, 1979, 44 F.R. 71805, provided:

By the authority vested in me as President of the United States of America by Section 121(a)(1) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541, Public Law 95–595, 31 U.S.C. 68a) [31 U.S.C. 9503] and Section 301 of Title 3 of the United States Code, and in order to provide consistency among the financial and actuarial statements of Federal Government pension plans, it is hereby ordered as follows:

1–101. All the functions vested in the President by Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a) [31 U.S.C. 9503], are delegated to the Director of the Office of Management and Budget. The Director may, from time to time, designate other officers or agencies of the Fed-

eral Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

1–102. The head of an Executive agency responsible for the administration of any Federal Government pension plan within the meaning of Section 123(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68c) [31 U.S.C. 9502(1)], except subsections (a)(9) and (b), shall ensure that the administrators of those plans comply with the form, manner, and time of filing as required by the Director of the Office of Management and Budget.

1–103. Subject to the provisions of Section 1–101 of this Order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to the development of the form and content of the annual reports, shall perform the functions set forth in Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a) [31 U.S.C. 9503]. In performing this function, the Secretary shall also be responsible for consulting with the Comptroller General.

JIMMY CARTER.

### § 9504. Review and recommendations

When necessary or when requested by either House of Congress or a committee of Congress, the Comptroller General shall—

(1) review financial and actuarial statements provided under section 9503 of this title to decide whether the reporting requirements of section 9503 are adequate to carry out section 9501 of this title; and

(2) submit to Congress recommendations for legislation necessary to carry out section 9501 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1051.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9504 ..... | 31:68b. | Sept. 12, 1950, ch. 946, 64 Stat. 832, § 122; added Nov. 4, 1978, Pub. L. 95–595, § 1, 92 Stat. 2542. |

The word ''When'' is substituted for ''If'' in both places as being more precise. The word ''deemed'' is omitted as unnecessary because of the restatement. The words ''the General Accounting Office'' are omitted as unnecessary because of the restatement and because the authority to act is vested in the Comptroller General.

## CHAPTER 97—MISCELLANEOUS

Sec.
9701. Fees and charges for Government services and things of value.
9702. Investment of trust funds.
9703.[1] Managerial accountability and flexibility.
9704. Pilot projects for managerial accountability and flexibility.
9703.[1] Department of the Treasury Forfeiture Fund.

AMENDMENTS

1993—Pub. L. 103–62, § 11(b)(2), Aug. 3, 1993, 107 Stat. 295, added item 9703 relating to managerial accountability and flexibility and item 9704.

1992—Pub. L. 102–393, title VI, § 638(b)(2), Oct. 6, 1992, 106 Stat. 1788, added item 9703.

[1] So in original. Two sections 9703 have been enacted.

### § 9701. Fees and charges for Government services and things of value

(a) It is the sense of Congress that each service or thing of value provided by an agency (except a mixed-ownership Government corporation) to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible.

(b) The head of each agency (except a mixed-ownership Government corporation) may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be—

(1) fair; and

(2) based on—

(A) the costs to the Government;

(B) the value of the service or thing to the recipient;

(C) public policy or interest served; and

(D) other relevant facts.

(c) This section does not affect a law of the United States—

(1) prohibiting the determination and collection of charges and the disposition of those charges; and

(2) prescribing bases for determining charges, but a charge may be redetermined under this section consistent with the prescribed bases.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1051.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9701 ..... | 31:483a. | Aug. 31, 1951, ch. 376, § 501, 65 Stat. 290. |

In the section, the words ''agency (except a mixed-ownership Government corporation)'' are substituted for ''Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945 [31 U.S.C. 841 et seq.]'' because of section 101 of the revised title and for consistency.

In subsection (a), the words ''each service or thing of value provided'' are substituted for ''any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued'' for consistency and to eliminate unnecessary words. The words ''(including groups, associations, organizations, partnerships, corporations, or businesses)'' are omitted as being included in ''person'' under 1:1.

In subsection (b), before clause (1), the words ''may prescribe regulations establishing the charge for a service or thing of value provided by the agency'' are substituted for ''is authorized by regulation . . . to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one'' for consistency, to eliminate unnecessary words, and because of the restatement. In clause (1), the words ''and equitable'' are omitted as being included in ''fair''. In clause (2)(A), the words ''direct and indirect'' are omitted as surplus. In clause (2)(B), the words ''of the service or thing'' are added for clarity. In clause (2)(D), the words ''and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts'' are omitted as unnecessary because of section 3302(a) of this title.

Subsection (c) is substituted for 31:483a(provisos) for clarity and to eliminate unnecessary words.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–393, title VI, § 638(a), Oct. 6, 1992, 106 Stat. 1779, provided that: ''This section [enacting section 9703 of this title and amending sections 981 and 982 of Title 18, Crimes and Criminal Procedure, section 1509 of Title 21, Food and Drugs, section 524 of Title 28, Judiciary and Judicial Procedure, and section 2003 of Title 39, Postal Service] may be cited as the 'Treasury Forfeiture Fund Act of 1992'.''

## § 9702. Investment of trust funds

Except as required by a treaty of the United States, amounts held in trust by the United States Government (including annual interest earned on the amounts)—

(1) shall be invested in Government obligations; and

(2) shall earn interest at an annual rate of at least 5 percent.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

| *Revised Section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 9702 ..... | 31:547a. | R.S. § 3659. |

The section is substituted for 31:547a for clarity and consistency in the revised title.

## § 9703.[1] Managerial accountability and flexibility

(a) Beginning with fiscal year 1999, the performance plans required under section 1115 may include proposals to waive administrative procedural requirements and controls, including specification of personnel staffing levels, limitations on compensation or remuneration, and prohibitions or restrictions on funding transfers among budget object classification 20 and subclassifications 11, 12, 31, and 32 of each annual budget submitted under section 1105, in return for specific individual or organization accountability to achieve a performance goal. In preparing and submitting the performance plan under section 1105(a)(29),[2] the Director of the Office of Management and Budget shall review and may approve any proposed waivers. A waiver shall take effect at the beginning of the fiscal year for which the waiver is approved.

(b) Any such proposal under subsection (a) shall describe the anticipated effects on performance resulting from greater managerial or organizational flexibility, discretion, and authority, and shall quantify the expected improvements in performance resulting from any waiver. The expected improvements shall be compared to current actual performance, and to the projected level of performance that would be achieved independent of any waiver.

(c) Any proposal waiving limitations on compensation or remuneration shall precisely express the monetary change in compensation or remuneration amounts, such as bonuses or awards, that shall result from meeting, exceeding, or failing to meet performance goals.

(d) Any proposed waiver of procedural requirements or controls imposed by an agency (other than the proposing agency or the Office of Management and Budget) may not be included in a performance plan unless it is endorsed by the agency that established the requirement, and the endorsement included in the proposing agency's performance plan.

(e) A waiver shall be in effect for one or two years as specified by the Director of the Office of Management and Budget in approving the waiver. A waiver may be renewed for a subsequent year. After a waiver has been in effect for three consecutive years, the performance plan prepared under section 1115 may propose that a waiver, other than a waiver of limitations on compensation or remuneration, be made permanent.

(f) For purposes of this section, the definitions under section 1115(f)[2] shall apply.

(Added Pub. L. 103–62, § 5(a), Aug. 3, 1993, 107 Stat. 289.)

REFERENCES IN TEXT

Section 1105(a)(29), referred to in subsec. (a), was redesignated section 1105(a)(28) of this title by Pub. L. 104–287, § 4(1), Oct. 11, 1996, 110 Stat. 3388.

Section 1115(f), referred to in subsec. (f), was redesignated section 1115(g) of this title by Pub. L. 107–296, title XIII, § 1311(a)(2), Nov. 25, 2002, 116 Stat. 2290.

CONSTRUCTION

No provision or amendment made by Pub. L. 103–62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a note under section 1115 of this title.

## § 9704. Pilot projects for managerial accountability and flexibility

(a) The Director of the Office of Management and Budget shall designate not less than five agencies as pilot projects in managerial accountability and flexibility for fiscal years 1995 and 1996. Such agencies shall be selected from those designated as pilot projects under section 1118 and shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall include proposed waivers in accordance with section 9703[1] for one or more of the major functions and operations of the agency.

(c) The Director of the Office of Management and Budget shall include in the report to the President and to the Congress required under section 1118(c)—

(1) an assessment of the benefits, costs, and usefulness of increasing managerial and organizational flexibility, discretion, and authority in exchange for improved performance through a waiver; and

(2) an identification of any significant difficulties experienced by the pilot agencies in preparing proposed waivers.

(d) For purposes of this section the definitions under section 1115(f)[1] shall apply.

[1] Another section 9703 is set out after section 9704 of this title.

[2] See References in Text note below.

[1] See References in Text note below.

(Added Pub. L. 103–62, § 6(b), Aug. 3, 1993, 107 Stat. 290.)

REFERENCES IN TEXT

Section 9703, referred to in subsec. (b), probably means the section 9703 added by section 5(a) of Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 289, which is set out preceding this section.

Section 1115(f), referred to in subsec. (d), was redesignated section 1115(g) of this title by Pub. L. 107–296, title XIII, § 1311(a)(2), Nov. 25, 2002, 116 Stat. 2290.

CONSTRUCTION

No provision or amendment made by Pub. L. 103–62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103–62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103–62, set out as a note under section 1115 of this title.

## § 9703.[1] Department of the Treasury Forfeiture Fund

(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Department of the Treasury Forfeiture Fund'' (referred to in this section as the ''Fund''). The Fund shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes:

(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

(B) Payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

(D) Satisfaction of—

(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization. To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

(E) Payment of amounts authorized by law with respect to remission and mitigation.

(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.

(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

(I) payment[2] of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;[3]

(J) payment[2] made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

(ii) training;

(iii) printing; and

(iv) contracting for services directly related to—

(I) the identification of forfeitable assets;

(II) the processing of and accounting for forfeitures; and

(III) the storage, maintenance, protection, and destruction of controlled substances.

(2) At the discretion of the Secretary—

(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

(B) purchases of evidence or information by—

(i) a Department of the Treasury law enforcement organization with respect to—

(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering); or

[1] Another section 9703 is set out preceding section 9704 of this title.

[2] So in original. Probably should be capitalized.

[3] So in original. The semicolon probably should be a period.

(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;

(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

(iii) the United States Secret Service with respect to a violation of—

(I) section 1028, 1029, or 1030 or[4] title 18;

(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government; or

(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation; and

(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act).

(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(E) the payment of claims against employees of the Customs Service settled by the Secretary under section 630 of the Tariff Act of 1930;

(F) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;[5]

(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and[6]

(b) LIMITATIONS.—

(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—

(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of $10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

(2) Funds made available under this subsection may be used to—

(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers

[4] So in original. Probably should be ''of''.

[5] So in original. Probably should be followed by ''and''.

[6] So in original. The ''; and'' probably should be a period.

that are incurred in joint law enforcement operations with the United States Coast Guard;

(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

(d) DEPOSITS AND CREDITS.—

(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(e) INVESTMENTS.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section may be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(f) REPORTS TO CONGRESS.—The Secretary shall transmit to the Congress, not later than February 1 of each year—

(1) a report on—

(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

(2) a report on—

(A) the balance of the Fund at the beginning of the preceding fiscal year;

(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;

(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more;

(E) the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

(F) the balance of the Fund at the end of the preceding fiscal year;

(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101–576); and

(I) an analysis of income and expenses showing the revenue received or lost—

(i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and

(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101–576).

(g) APPROPRIATIONS.—

(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

(A) $25,000,000 for fiscal year 1993; and

(B) $50,000,000 for each fiscal year after fiscal year 1993.

(3)(A) Subject to subparagraphs (B) and (C), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary shall transfer from the Fund not more than $100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.[7]

(B) Transfers pursuant to subparagraph (A) shall be made only from excess unobligated

[7] See References in Text note below.

amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a). Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000.

(C) The Secretary of the Treasury shall reserve an amount not to exceed $30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year[8] 1993, 1994, 1995, and 1996, the Secretary shall reserve in the Fund an amount not to exceed $50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year. At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under subsection (a). Unobligated balances remaining pursuant to section 4(B) of 9703(g)[9] shall also be carried forward.

(4)(A) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii)[7] and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

(C) Any obligation or expenditure in excess of $500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

(h) RETENTION OR TRANSFER OF PROPERTY.—

(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—

(A) retain any of the property for official use; or

(B) transfer any of the property to—

(i) any other Federal agency; or

(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure of[10] forfeiture of the property, if such a transfer—

(A) is one with which the Secretary of State has agreed;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).[7]

(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

(i) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.

(j) CUSTOMS FORFEITURE FUND.—Notwithstanding any other provision of law—

(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—

(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and

(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

(k) LIMITATION OF LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

(*l*) AUTHORITY TO WARRANT TITLE.—Following the completion of procedures for the forfeiture of property pursuant to any law enforced or ad-

[8] So in original. Probably should be ''years''.

[9] So in original. Probably should be ''paragraph (4)(B)''.

[10] So in original. Probably should be ''or''.

ministered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

(m) FORFEITED PROPERTY.—For purposes of this section and notwithstanding section 524(c)(11)[7] of title 28 or any other law—

(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and

(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

(n) TRANSFERS TO ATTORNEY GENERAL AND POSTMASTER GENERAL.—

(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a ''participating Federal agency'' is an agency that participates in the Department of Justice Assets Forfeiture Fund.

(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

(*o*) DEFINITIONS.—For purposes of this section—

(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term ''Department of the Treasury law enforcement organization'' means the United States Customs Service, the United States Secret Service, the Tax and Trade Bureau, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(Added Pub. L. 102–393, title VI, § 638(b)(1), Oct. 6, 1992, 106 Stat. 1779; amended Pub. L. 103–182, title VI, § 685, Dec. 8, 1993, 107 Stat. 2220; Pub. L. 103–322, title IX, § 90205(c), Sept. 13, 1994, 108 Stat. 1994; Pub. L. 103–329, title I, § 112, Sept. 30, 1994, 108 Stat. 2391; Pub. L. 104–208, div. A, title I, § 101(f) [title I, § 116], Sept. 30, 1996, 110 Stat. 3009–314, 3009–325; Pub. L. 105–61, title I, § 122(b), (c), Oct. 10, 1997, 111 Stat. 1289; Pub. L. 107–296, title XI, § 1112(n), Nov. 25, 2002, 116 Stat. 2278.)

REFERENCES IN TEXT

Sections 7301 and 7302 of the Internal Revenue Code of 1986, referred to in subsecs. (a), (d)(2)(A), (h)(1), and (j)(1), are classified to sections 7301 and 7302, respectively, of Title 26, Internal Revenue Code. Section 5872(b)(2) of the Internal Revenue Code of 1986, referred to in subsec. (*o*)(1), is classified to section 5872(b)(2) of Title 26.

The Bank Secrecy Act, referred to in subsec. (a)(2)(B)(iv), is title I of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1114, as amended, which is classified principally to chapter 21 (§ 1951 et seq.) of Title 12, Banks and Banking, and has also been the popular name of provisions reenacted as subchapter II of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1951 of Title 12 and Tables.

Section 630 of the Tariff Act of 1930, referred to in subsec. (a)(2)(E), is classified to section 1630 of Title 19, Customs Duties.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b)(3), 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.

The Chief Financial Officers Act of 1990, referred to in subsec. (f), is Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of this title and Tables.

Section 6073 of the Anti-Drug Abuse Act of 1988, referred to in subsec. (g)(3)(A), was classified to section 1509 of Title 21, Food and Drugs, prior to repeal by Pub. L. 109–469, title XI, § 1101(b), Dec. 29, 2006, 120 Stat. 3539.

The date of the enactment of this section, referred to in subsec. (g)(3)(C), is the date of the enactment of Pub. L. 102–393, which was approved Oct. 6, 1992.

Subparagraph (A)(ii), referred to in subsec. (g)(4)(B), means cl. (ii) of subsec. (g)(4)(A) which was repealed by Pub. L. 103–322, title IX, § 90205(c)(2)(B), Sept. 13, 1994, 108 Stat. 1995.

Section 481(h) of the Foreign Assistance Act of 1961, referred to in subsec. (h)(2)(C), was classified to section 2291(h) of Title 22, Foreign Relations and Intercourse, prior to repeal of subsec. (h) by Pub. L. 102–583, § 6(b)(2), Nov. 2, 1992, 106 Stat. 4932. Reference to section 481(h) of the Foreign Assistance Act of 1961 probably should be to section 490(a)(1) of the Act, which is classified to section 2291j(a)(1) of Title 22.

The effective date of the Treasury Forfeiture Act of 1992, referred to in subsec. (j)(2), probably means the date of enactment of the Treasury Forfeiture Fund Act of 1992, section 638 of Pub. L. 102–393, which was approved Oct. 6, 1992.

Section 524(c)(11) of title 28, referred to in subsec. (m), was redesignated section 524(c)(10) by Pub. L. 104–66, title I, § 1091(h)(2), Dec. 21, 1995, 109 Stat. 722.

AMENDMENTS

2002—Subsec. (a)(2)(B). Pub. L. 107–296, § 1112(n)(1), in cl. (iii)(III), inserted ''and'' at end, in cl. (iv), sub-

stituted a period for ''; and'' at end, and struck out cl. (v) which read as follows: ''the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

''(I) section 842(h) of title 18;

''(II) section 844(d), (e), (f), (g), (h), or (i) of title 18; or

''(III) section 924(c) of title 18;''.

Subsec. (*o*). Pub. L. 107–296, § 1112(n)(2), (3), redesignated subsec. (p) as (*o*) and struck out former subsec. (*o*) which provided that provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws, the remission or mitigation of such forfeiture, and the compromise of claims, would apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms, and that duties that were imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws would be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as had been authorized or designated for that purpose by the Secretary.

Subsec. (*o*)(1). Pub. L. 107–296, § 1112(n)(4), substituted ''Tax and Trade Bureau'' for ''Bureau of Alcohol, Tobacco and Firearms''.

Subsec. (p). Pub. L. 107–296, § 1112(n)(3), redesignated subsec. (p) as (*o*).

1997—Subsec. (g)(3)(C). Pub. L. 105–61, § 122(b), inserted at end ''Unobligated balances remaining pursuant to section 4(B) of 9703(g) shall also be carried forward.''

Subsec. (g)(4)(B). Pub. L. 105–61, § 122(c), struck out '', subject to subparagraph (C),'' after ''shall''.

1996—Subsec. (g)(3)(C). Pub. L. 104–208 substituted ''1994, 1995, and 1996'' for ''and at the end of each fiscal year thereafter'' and inserted at end ''At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under subsection (a).''

1994—Subsec. (a). Pub. L. 103–329 redesignated subpars. (G) and (J) of par. (2) as (I) and (J) of par. (1), respectively, and subpars. (H) and (I) of par. (2) as (G) and (H) of par. (2), respectively.

Subsec. (g)(3)(A). Pub. L. 103–322, § 90205(c)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary shall transfer from the Fund not more than $10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.).''

Subsec. (g)(3)(B). Pub. L. 103–322, § 90205(c)(1)(B), inserted at end ''Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000.''

Subsec. (g)(4)(A). Pub. L. 103–322, § 90205(c)(2), struck out ''(i)'' after ''(A)'' and struck out cl. (ii) which read as follows: ''Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury's pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.''

1993—Subsec. (a)(2)(E) to (J). Pub. L. 103–182, § 685(1), (2), added subpar. (E) and redesignated former subpars. (E) to (I) as (F) to (J), respectively.

Subsec. (e). Pub. L. 103–182, § 685(3), substituted ''may'' for ''shall'' before ''be kept on deposit''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

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.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 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.

For transfer of functions, personnel, assets, and liabilities of the Federal Law Enforcement Training Center of the Department of the Treasury to the Secretary of Homeland Security, and for treatment of related references, see sections 203(4), 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.

UNAVAILABLE COLLECTIONS

Section 122(a) of Pub. L. 105–61 provided that: ''The Secretary of the Treasury is authorized to receive all unavailable collections transferred from the Special Forfeiture Fund established by section 26073 [6073] of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509) by the Director of the Office of Drug Control Policy as a deposit into the Treasury Forfeiture Fund (31 U.S.C. 9703(a)), to become available for obligation on October 1, 1998, as revenue available for purposes identified under 31 U.S.C. 9703(g)(4)(B).''

## [§ 9704.]

CODIFICATION

Section 9704 is set out after the first section 9703.