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 L. 97–258, Sept. 13, 1982, 96 Stat. 1068, repealed the sections or parts thereof of the Revised Statutes or Statutes at Large codified in this title, except for rights and duties that matured, penalties that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replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.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. Jan. 3, 1923, ch. 22(related to appointment and duties of Deputy and Under Secretaries), 42 Stat. 1087. 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.

SERVICE CONTRACT INVENTORY

Pub. L. 111–117, div. C, title VII, §743, Dec. 16, 2009, 123 Stat. 3216, provided that:

''(a) SERVICE CONTRACT INVENTORY REQUIREMENT.—

''(1) GUIDANCE.—Not later than March 1, 2010, the Director of the Office of Management and Budget shall develop and disseminate guidance to aid executive agencies in establishing systems for the collection of information required to meet the requirements of this section and to ensure consistency of inventories across agencies.

''(2) REPORT.—Not later than July 31, 2010, the Director of the Office of Management and Budget shall submit a report to Congress on the status of efforts to enable executive agencies to prepare the inventories required under paragraph (3), including the development, as appropriate, of guidance, methodologies, and technical tools.

''(3) INVENTORY CONTENTS.—Not later than December 31, 2010, and annually thereafter, the head of each executive agency required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note), other than the Department of Defense, shall submit to the Office of Management and Budget an annual inventory of service contracts awarded or extended through the exercise of an option on or after April 1, 2010, for or on behalf of such agency. For each service contract, the entry for an inventory under this section shall include, for the preceding fiscal year, the following:

''(A) A description of the services purchased by the executive agency and the role the services played in achieving agency objectives, regardless of whether such a purchase was made through a contract or task order.

''(B) The organizational component of the executive agency administering the contract, and the organizational component of the agency whose requirements are being met through contractor performance of the service.

''(C) The total dollar amount obligated for services under the contract and the funding source for the contract.

''(D) The total dollar amount invoiced for services under the contract.

''(E) The contract type and date of award.

''(F) The name of the contractor and place of performance.

''(G) The number and work location of contractor and subcontractor employees, expressed as full-time equivalents for direct labor, compensated under the contract.

''(H) Whether the contract is a personal services contract.

''(I) Whether the contract was awarded on a non-competitive basis, regardless of date of award.

''(b) FORM.—Reports required under this section shall be submitted in unclassified form, but may include a classified annex.

''(c) PUBLICATION.—Not later than 30 days after the date on which the inventory under subsection (a)(3) is required to be submitted to the Office of Management and Budget, the head of each executive agency shall—

''(1) make the inventory available to the public; and

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

''(d) GOVERNMENT-WIDE INVENTORY REPORT.—Not later than 90 days after the deadline for submitting inventories under subsection (a)(3), and annually thereafter, the Director of the Office of Management and Budget shall submit to Congress and make publicly available on the Office of Management and Budget website a report on the inventories submitted. The report shall identify whether each agency required to submit an inventory under subsection (a)(3) has met such requirement and summarize the information submitted by each executive agency required to have a Chief Financial Officer pursuant to section 901 of title 31, United States Code.

''(e) REVIEW AND PLANNING REQUIREMENTS.—Not later than 180 days after the deadline for submitting inventories under subsection (a)(3) for an executive agency, the head of the executive agency, or an official designated by the agency head shall—

''(1) review the contracts and information in the inventory;

''(2) ensure that—

''(A) each contract in the inventory that is a personal services contract has been entered into, and is being performed, in accordance with applicable laws and regulations;

''(B) the agency is giving special management attention to functions that are closely associated with inherently governmental functions;

''(C) the agency is not using contractor employees to perform inherently governmental functions;

''(D) the agency has specific safeguards and monitoring systems in place to ensure that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;

''(E) the agency is not using contractor employees to perform critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operations; and

''(F) there are sufficient internal agency resources to manage and oversee contracts effectively;

''(3) identify contracts that have been poorly performed, as determined by a contracting officer, because of excessive costs or inferior quality; and

''(4) identify contracts that should be considered for conversion to—

''(A) performance by Federal employees of the executive agency in accordance with agency insourcing guidelines required under section 736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111–8, division D) [amending provisions set out as a note below]; or

''(B) an alternative acquisition approach that would better enable the agency to efficiently utilize its assets and achieve its public mission.

''(f) REPORT ON ACTIONS TAKEN IN RESPONSE TO ANNUAL INVENTORY.—Not later than one year after submitting an annual inventory under subsection (a)(3), the head of each executive agency submitting such an inventory shall submit to the Office of Management and Budget a report summarizing the actions taken pursuant to subsection (e), including any actions taken to consider and convert functions from contractor to Federal employee performance. The report shall be included as an attachment to the next annual inventory and made publicly available in accordance with subsection (c).

''(g) SUBMISSION OF SERVICE CONTRACT INVENTORY BEFORE PUBLIC-PRIVATE COMPETITION.—Notwithstanding any other provision of law, beginning in fiscal year 2011, if an executive agency has not submitted to the Office of Management and Budget the inventory required under subsection (a)(3) for the prior fiscal year, the agency may not begin, plan for, or announce a study or public-private competition regarding the conversion to contractor performance of any function performed by Federal employees pursuant to Office of Management and Budget Circular A–76 or any other administrative regulation or directive until such time as the inventory is submitted for the prior fiscal year.

''(h) GAO REPORTS ON IMPLEMENTATION.—

''(1) REPORT ON GUIDANCE.—Not later than 120 days after submission of the report by the Director of the Office of Management and Budget required under subsection (a)(2), the Comptroller General of the United States shall report on the guidance issued and actions taken by the Director. The report shall be submitted to the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate and the Committee on Oversight and Government Reform and the Committee on Appropriations of the House of Representatives.

''(2) REPORTS ON INVENTORIES.—

''(A) INITIAL INVENTORY.—Not later than September 30, 2011, the Comptroller General of the United States shall submit a report to the Committees named in the preceding paragraph on the initial implementation by executive agencies of the inventory requirement in subsection (a)(3) with respect to inventories required to be submitted by December 31, 2010.

''(B) SECOND INVENTORY.—Not later than September 30, 2012, the Comptroller General shall submit a report to the same Committees on annual inventories required to be submitted by December 31, 2011.

''(3) PERIODIC BRIEFINGS.—The Comptroller General shall provide periodic briefings, as may be requested by the Committees, on matters related to implementation of this section.

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

REQUIREMENT FOR DEBRIEFINGS RELATED TO CONVERSION OF FUNCTIONS FROM PERFORMANCE BY FEDERAL EMPLOYEES TO PERFORMANCE BY A CONTRACTOR

Pub. L. 111–84, div. A, title III, § 326, Oct. 28, 2009, 123 Stat. 2254, provided that: ''The Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation to allow for debriefings of Federal employee representatives designated pursuant to 3551(2)(B) of title 31, United States Code, to the same

extent and under the same circumstances as any offeror, in the case of a conversion of any function from performance by Federal employees to performance by a contractor. Such debriefings will conform to the requirements of section 2305(b)(6)(A) of title 10, United States Code, section 303B(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(f)), and subparts 15.505 and 15.506 (as in effect on the date of the enactment of this Act [Oct. 28, 2009]) of the Federal Acquisition Regulation.''

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, as amended by Pub. L. 111–8, div. D, title VII, §§ 735, 736, Mar. 11, 2009, 123 Stat. 689, 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 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) GUIDELINES ON INSOURCING NEW AND CONTRACTED OUT FUNCTIONS.—

''(1) GUIDELINES REQUIRED.—(A) The heads of executive agencies subject to the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 31 U.S.C. 501 note) shall devise and implement guidelines and procedures to ensure that consideration is given to using, on a regular basis, Federal employees to perform new functions and functions that are performed by contractors and could be performed by Federal employees.

''(B) The guidelines and procedures required under subparagraph (A) may not include any specific limitation or restriction on the number of functions or activities that may be converted to performance by Federal employees.

''(2) SPECIAL CONSIDERATION FOR CERTAIN FUNCTIONS.—The guidelines and procedures required under paragraph (1) shall provide for special consideration to be given to using Federal employees to perform any function that—

''(A) is performed by a contractor and—

''(i) has been performed by Federal employees at any time during the previous 10 years;

''(ii) is a function closely associated with the performance of an inherently governmental function;

''(iii) has been performed pursuant to a contract awarded on a non-competitive basis; or

''(iv) has been performed poorly, as determined by a contracting officer during the 5-year period preceding the date of such determination, because of excessive costs or inferior quality; or

''(B) is a new requirement, with particular emphasis given to a new requirement that is similar to a function previously performed by Federal employees or is a function closely associated with the performance of an inherently governmental function.

''(3) EXCLUSION OF CERTAIN FUNCTIONS FROM COMPETITIONS.—The head of an executive agency may not conduct a public-private competition under Office of Management and Budget Circular A–76 or any other provision of law or regulation before—

''(A) in the case of a new agency function, assigning the performance of the function to Federal employees;

''(B) in the case of any agency function described in paragraph (2), converting the function to performance by Federal employees; or

''(C) in the case of an agency function performed by Federal employees, expanding the scope of the function.

''(4) DEADLINE.—(A) The head of each executive agency shall implement the guidelines and procedures required under this subsection by not later than 120 days after the date of the enactment of this subsection [Mar. 11, 2009].

''(B) Not later than 210 days after the date of the enactment of this subsection, the Government Accountability Office shall submit a report on the implementation of this subsection to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

''(5) DEFINITIONS.—In this subsection:

''(A) The term 'inherently governmental functions' has the meaning given such term in subpart 7.5 of part 7 of the Federal Acquisition Regulation.

''(B) The term 'functions closely associated with inherently governmental functions' means the functions described in section 7.503(d) of the Federal Acquisition Regulation.

''(6) APPLICABILITY.—This subsection shall not apply to the Department of Defense.

''(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 Comptroller 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 employees 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. 111–83, title V, §504, Oct. 28, 2009, 123 Stat. 2169, 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 2010: *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 2010 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 [123 Stat. 2168].''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–329, div. D, title V, §504, Sept. 30, 2008, 122 Stat. 3680.

Pub. L. 110–161, div. E, title V, §524, Dec. 26, 2007, 121 Stat. 2074.

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 requirements 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 cen-

tral 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 efforts 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 forecast 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 adher-

ence 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 surveys. 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 President'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 Financial 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

SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

Sec.
701. Definitions.
702. Government Accountability Office.
703. Comptroller General and Deputy Comptroller General.
704. Relationship to other laws.
705. Inspector General for the Government Accountability Office.

SUBCHAPTER II—GENERAL DUTIES AND POWERS

711. General authority.
712. Investigating the use of public money.
713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms.[1]
714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency.
715. Audit of accounts and operations of the District of Columbia government.
716. Availability of information and inspection of records.
717. Evaluating programs and activities of the United States Government.
718. Availability of draft reports.
719. Comptroller General reports.
720. Agency reports.

SUBCHAPTER III—PERSONNEL

731. General.
732. Personnel management system.
732a. Critical positions.
733. Senior Executive Service.
734. Assignments and details to Congress.
735. Relationship to other laws.
736. Authorization of appropriations.

SUBCHAPTER IV—PERSONNEL APPEALS BOARD

751. Organization.
752. Chairman and General Counsel.
753. Duties and powers.
754. Action by the Comptroller General.
755. Judicial review.

SUBCHAPTER V—ANNUITIES

771. Definitions.
772. Annuity of the Comptroller General.
773. Election of survivor benefits.
774. Survivor annuities.
775. Refunds.
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.

[1] Section catchline amended by Pub. L. 107–296 without corresponding amendment of chapter analysis.

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'.''

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 Comptroller 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.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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.

(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

[1] So in original.

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 Board of Governors of the Federal Reserve System (in this section referred to as the ''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 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 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) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

(4) This subsection shall not—

(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.

(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 have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and

other records as the Comptroller General determines appropriate. 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, copies of any record, or property of or used by an agency that the Comptroller General obtains during an audit.

(3)(A) For purposes of conducting audits and examinations under subsection (e), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

(i) any entity established by any action taken by the Board described under subsection (e);

(ii) any entity receiving assistance from any action taken by the Board described under subsection (e), to the extent that the access and request relates to that assistance; and

(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii); to the extent that the access and request relates to that assistance;

(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request.

(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) shall provide for access by the Comptroller General in accordance with this paragraph.

(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343); with respect to a single and specific partnership or corporation.

(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; Pub. L. 111–22, div. A, title VIII, §801, May 20, 2009, 123 Stat. 1662.)

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

2009—Subsec. (a). Pub. L. 111–22, §801(a)(1), substituted ''Board of Governors of the Federal Reserve System (in this section referred to as the 'Board'),'' for ''Federal Reserve Board,''.

Subsec. (b). Pub. L. 111–22, §801(a)(2)(A), which directed substitution of ''Board'' for ''Federal Reserve Board,'' in introductory provisions, was executed by making the substitution for ''Federal Reserve Board'' to reflect the probable intent of Congress.

Subsec. (b)(4). Pub. L. 111–22, §801(a)(2)(B), struck out ''of Governors'' after ''Board''.

Subsec. (c)(3), (4). Pub. L. 111–22, §801(b), added pars. (3) and (4) and struck out former par. (3) which read as follows: ''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.''

Subsec. (d)(1). Pub. L. 111–22, §801(c)(1), inserted after first sentence ''The Comptroller General shall have access to the officers, employees, contractors, and other

agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.''

Subsec. (d)(2). Pub. L. 111–22, § 801(c)(2), inserted '', copies of any record,'' after ''records''.

Subsec. (d)(3). Pub. L. 111–22, § 801(c)(3), added par. (3).

Subsec. (e). Pub. L. 111–22, § 801(d), added subsec. (e).

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 consider 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.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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 re-

quested 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 estimated 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.

[1] See References in Text note below.

(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.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
	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. 31:1172. 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 revised 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 Gov-

ernmental 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;

[1] See Change of Name note below.

[2] So in original. Probably should be "Government Accountability Office".

(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—

(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 Sen-

[1] See Change of Name note below.

[1] See Change of Name note below.

ior 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 ''established'' 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.

[1] See Change of Name note below.

[2] So in original. The comma probably should not appear.

(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 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—

[1] See Change of Name note below.

(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.

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

[1] See Change of Name note below.

[2] See References in Text note below.

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 Personnel 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

[1] See Change of Name note below.

[1] So in original. Second comma probably should follow ''(7)''.

[2] See References in Text note below.

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

(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.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
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). 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.
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.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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 condi-

[1] See Change of Name note below.

tions 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 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.

[1] See Change of Name note below.

[1] See Change of Name note below.

Sec.
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.

(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.
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.

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