

§ 728. Rules and regulations

The Secretary of the Treasury shall have power, with the approval of the President, to make such rules and regulations as may be necessary for the execution of the functions vested in him by this chapter, and may for such purpose require persons making shipment of valuables or making claims for replacement to make such declarations or to furnish him with such other information as he may deem necessary.

(July 8, 1937, ch. 444, § 6, 50 Stat. 480.)

CODIFICATION

Section was formerly classified to section 134e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Treasury of authority vested in President by this section, see section 2(a) of Ex. Ord. No. 10289, eff. Sept. 17, 1951, 16 F.R. 9409, set out as a note under section 301 of Title 3, The President.

§ 729. Definitions

For the purposes of this chapter—

(a) The term “valuables” means any articles or things or representatives of value in which the United States has any interest, or in connection with which it has any obligation or responsibility, direct or indirect, and which are declared to be valuables within the meaning of this chapter by the Secretary of the Treasury. No articles or things shall be declared to be valuables by the Secretary of the Treasury unless he determines that replacement thereof in accordance with the procedure established herein, in the event of loss, destruction, or damage in the course of shipment, would be in the public interest. The term “United States” as used in this subsection and in section 725 of this title means the United States, its executive departments, independent establishments, and agencies, including wholly owned corporations, and officers and employees of any of the foregoing while acting in their official capacity.

(b) The term “shipment” means the transportation, or the effecting of transportation, of valuables, without limitation as to the means or facilities used or by which the transportation, is effected or the person to whom it is made, and includes, but is not limited to, shipments made to any executive department, independent establishment, agency, wholly or partly owned corporation, officer, or employee of the United States, or any person acting on his or its behalf or at his or its direction;

(c) The term “wholly owned corporation” means any corporation, regardless of the law or laws under which it is incorporated, the capital of which is entirely owned, directly or indirectly, by the United States, and includes the duly authorized officers, employees, and agents thereof;

(d) The term “replacement” means payment, reimbursement, replacement, or duplication or the expenses incident thereto.

(July 8, 1937, ch. 444, § 7, 50 Stat. 480; Aug. 10, 1939, ch. 665, § 3, 53 Stat. 1359.)

CODIFICATION

Section was formerly classified to section 134f of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1939—Subsec. (a). Act Aug. 10, 1939, amended definition of “valuables”.

CHAPTER 16—GENERAL SERVICES ADMINISTRATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 472, 473 of this title.

§ 751. General Services Administration

(a) Establishment

There is established an agency in the executive branch of the Government which shall be known as the General Services Administration.

(b) Administrator of General Services; appointment

There shall be at the head of the General Services Administration an Administrator of General Services who shall be appointed by the President by and with the advice and consent of the Senate, and perform his functions subject to the direction and control of the President.

(c) Deputy Administrator of General Services; appointment; duties

There shall be in the General Services Administration a Deputy Administrator of General Services who shall be appointed by the Administrator of General Services. The Deputy Administrator shall perform such functions as the Administrator shall designate and shall be Acting Administrator of General Services during the absence or disability of the Administrator and, unless the President shall designate another officer of the Government, in the event of a vacancy in the office of Administrator.

(d), (e) Omitted

(f) Authority to prescribe regulations

The Administrator shall have authority to prescribe regulations to carry out this Act.

(June 30, 1949, ch. 288, title I, §101, 63 Stat. 379; Oct. 18, 1986, Pub. L. 99-500, §101(m) [title VIII,

§ 832], 100 Stat. 1783-308, 1783-345, and Oct. 30, 1986, Pub. L. 99-591, §101(m) [title VIII, §832], 100 Stat. 3341-308, 3341-345.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act to the Code, see Short Title note set out under section 471 of this title and Tables.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Subsec. (d) of this section, which related to performance of functions until appointment of the Administrator, is omitted.

Subsec. (e) of this section, which authorized the President to fix rates of compensation for the Administrator, the Deputy Administrator, and the heads and assistant heads of the principal organizations of the General Services Administration pending the effective date of other provisions of law fixing the rates of compensation of such officers, is omitted.

Section was formerly classified to section 630 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 211 of Title 41, Public Contracts.

AMENDMENTS

1986—Subsec. (f). Pub. L. 99-500 and Pub. L. 99-591 added subsec. (f).

EFFECTIVE DATE

Chapter effective July 1, 1949, see section 605 of act June 30, 1949, set out as a note under section 471 of this title.

COMPENSATION OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR

Annual rate of basic compensation of Administrator and Deputy Administrator, see sections 5314 and 5315 of Title 5, Government Organization and Employees.

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Administrator of General Services, see Parts 1, 2, and 18 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.

§ 752. Transfer of functions

(a) Bureau of Federal Supply

The functions of (1) the Bureau of Federal Supply in the Department of the Treasury, (2) the Director of the Bureau of Federal Supply, (3) the personnel of such Bureau, and (4) the Secretary of the Treasury, relating to the Bureau of Federal Supply, are transferred to the Administrator. The records property, personnel, obligations, and commitments of the Bureau of Federal Supply, together with such additional records, property, and personnel of the Department of the Treasury as the Director of the Office of Management and Budget shall determine to relate primarily to functions transferred by this section or vested in the Administrator by titles II, III, and VI, of this Act, are hereby transferred to the General Service Administra-

tion. The Bureau of Federal Supply and the office of Director of the Bureau of Federal Supply are abolished.

(b) Office of Contract Settlement

The functions of the Director of Contract Settlement and of the Office of Contract Settlement, transferred to the Secretary of the Treasury by Reorganization Plan Numbered 1 of 1947, are transferred to the Administrator and shall be performed by him or, subject to his direction and control, by such officers and agencies of the General Services Administration as he may designate. The Contract Settlement Act Advisory Board created by section 105 of title 41 and the Appeal Board established under section 113(d) of title 41 are transferred from the Department of the Treasury to the General Services Administration, but the functions of these Boards shall be performed by them, respectively, under conditions and limitations prescribed by law. There shall also be transferred to the General Services Administration such records, property, personnel, obligations, commitments, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Treasury Department as the Director of the Office of Management and Budget shall determine to relate primarily to the functions transferred by the provisions of this subsection.

(c) Retention by Treasury Department of certain functions of Bureau of Federal Supply

Any other provision of this section notwithstanding, there may be retained in the Department of the Treasury any function referred to in subsection (a) of this section which the Director of the Office of Management and Budget shall, within ten days after July 1, 1949, determine to be essential to the orderly administration of the affairs of the agencies of such Department, other than the Bureau of Federal Supply, together with such records, property, personnel, obligations, commitments, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, of said Department, as said Director shall determine.

(June 30, 1949, ch. 288, title I, §102, 63 Stat. 380; Sept. 5, 1950, ch. 849, §6(a), 64 Stat. 583; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act, including titles II, III, and VI thereof, to the Code, see Short Title note set out under section 471 of this title and Tables.

Reorganization Plan Numbered 1 of 1947, referred to in subsec. (b), is Reorg. Plan No. 1 of 1947, 12 F.R. 4534, 61 Stat. 952, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 630a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 212 of Title 41, Public Contracts.

AMENDMENTS

1950—Subsec. (a). Act Sept. 5, 1950, substituted reference to title VI for reference to title V.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776 set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 756 of this title.

§ 753. Transfer of affairs of Federal Works Agency; abolition of agencies

(a) All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, of the Commissioner of Public Buildings, and of the Commissioner of Public Roads, are transferred to the Administrator of General Services. There are transferred to the General Services Administration the Public Roads Administration, which shall hereafter be known as the Bureau of Public Roads, and all records, property, personnel, obligations, and commitments of the Federal Works Agency, including those of all agencies of the Federal Works Agency.

(b) There are hereby abolished the Federal Works Agency, the Public Buildings Administration, the office of Federal Works Administrator, the office of Commissioner of Public Buildings, and the office of Assistant Federal Works Administrator.

(June 30, 1949, ch. 288, title I, §103, 63 Stat. 380.)

CODIFICATION

Section was formerly classified to section 630b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 213 of Title 41, Public Contracts.

TRANSFER OF FUNCTIONS

Bureau of Public Roads transferred to Department of Commerce to be administered by Commissioner of Public Roads subject to direction and control of Secretary of Commerce under provisions of Reorg. Plan No. 7 of 1949, §1, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1070, set out in the Appendix to Title 5, Government Organization and Employees, and thereafter transferred to De-

partment of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, and its functions assigned to Federal Highway Administration. See section 104 of Title 49, Transportation.

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

LEASE AND ASSIGNMENT OF BUILDING SPACE; MANAGEMENT; EXCEPTIONS

All functions with respect to acquiring space in buildings by lease, all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings), and all functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Office of Management and Budget, are not used predominantly for post-office purposes, were with certain exceptions, transferred from the respective agencies to the Administrator of General Services by sections 1 and 2 of Reorg. Plan No. 18 of 1950, eff. July 1, 1950, 15 F.R. 3177, 64 Stat. 1270, set out in note under section 490 of this title. For delegation of such transferred functions to other personnel of the General Services Administration, or to the heads and personnel of other agencies, and for transfer of personnel, property, records, and funds, see sections 3 and 4 of such Plan.

PUBLIC WORKS DEFENSE, FUNCTIONS RELATING TO

All functions, except as herein described, of the Administrator of General Services under sections 1531 to 1535 of Title 42, The Public Health and Welfare, relating to defense of public works, which, by this section, were transferred to such Administrator from the Federal Works Agency and the Federal Works Administrator, were transferred to the Housing and Home Finance Administrator by section 1 of Reorg. Plan No. 17 of 1950, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, set out in Appendix to Title 5, Government Organization and Employees, together with any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of such sections. Section 2 of such Plan excepted from the transfer, functions with respect to the holding, management, and disposition of securities received prior to the effective date of such Plan (May 24, 1950) by the General Services Administration or its predecessor agency (Federal Works Agency) by reason of the disposal of property constructed or otherwise acquired under such sections 1531 to 1535 of title 42, and functions with respect to litigation, and the liquidation of claims, arising out of the acquisition of land or the construction of the facilities under such sections. Section 4 of such Plan provided for transfer of records, property, personnel, and funds. All the functions, powers and duties of the Housing and Home Finance Agency were subsequently transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, §5, Sept. 9, 1965, 79 Stat. 669. See section 3534 of Title 42.

WAR MOBILIZATION AND RECONVERSION ACT, FUNCTIONS UNDER

All functions of the Administrator of General Services under title V of the War Mobilization and Reconversion Act of 1944, section 1671 of Appendix to Title 50, War and National Defense, which, by this section, were transferred to such Administrator from the Federal Works Agency and the Federal Works Administrator, were transferred to the Housing and Home Finance Administrator by §1 of Reorg. Plan No. 17 of 1950, eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269, set out in Appendix to Title 5, Government Organization and Employees, together with so much of any other function of the Ad-

ministrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of said title V of such act. Section 4 of such Plan provided for transfer of records, property, personnel and funds. All the functions, powers and duties of the Housing and Home Finance Agency were subsequently transferred to the Secretary of Housing and Urban Development by Pub. L. 89-174, §5, Sept. 9, 1965, 79 Stat. 669. See section 3534 of Title 42, The Public Health and Welfare.

WATER POLLUTION CONTROL ACT, FUNCTIONS UNDER

Functions of Administrator of General Services under Water Pollution Control Act [see section 1251 et seq. of Title 33, Navigation and Navigable Waters], which, by this section, were transferred to such Administrator from Federal Works Agency and Federal Works Administrator, were transferred to Federal Security Administrator by section 1 of Reorg. Plan No. 16 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1268, set out in Appendix to Title 5, Government Organization and Employees, together with so much of any other function of Administrator of General Services or of the General Services Administration as is incidental to or necessary for carrying out of provisions of such Act. Section 3 of such Plan provided for transfer of records, property, personnel, and funds. Federal Security Agency abolished by section 8 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out as a note in the Appendix to Title 5, and all duties and functions of Federal Security Agency and Administrator of Federal Security Agency transferred to Secretary of Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in Appendix to Title 5. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services, respectively, by 20 U.S.C. 3508.

§ 754. Redistribution of Administrator's functions

The Administrator is authorized, in his discretion, in order to provide for the effective accomplishment of the functions transferred to or vested in him by this Act, and from time to time, to regroup, transfer, and distribute any such functions within the General Services Administration. The Administrator is authorized to transfer the funds necessary to accomplish said functions and report such transfers of funds to the Director of the Office of Management and Budget.

(June 30, 1949, ch. 288, title I, §106, 63 Stat. 381; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act to the Code, see Short Title note set out under section 471 of this title and Tables.

CODIFICATION

Section was formerly classified to section 630d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 216 of Title 41, Public Contracts.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff.

July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 486 of this title.

§ 755. Transfer of funds

(a) All unexpended balances of appropriations, allocations, or other funds available or to be made available, for the use of the Bureau of Federal Supply, the War Assets Administration, the Federal Works Agency, and the National Archives Establishment, and so much of the other unexpended balances of appropriations, allocations, or other funds of the Department of the Treasury, available or to be made available, as the Director of the Office of Management and Budget shall determine to relate primarily to functions transferred to or vested in the Administrator by the provisions of this Act, shall be transferred to the General Services Administration for use in connection with the functions to which such balances relate respectively.

(b) When other functions are transferred to the General Services Administration from any Federal agency, under section 481(a)(2) or (3) of this title, or otherwise under this Act, there shall be transferred such records, property, personnel, appropriations, allocations, and other funds of such agency to the General Services Administration as the Director of the Office of Management and Budget shall determine to relate primarily to the functions so transferred.

(June 30, 1949, ch. 288, title I, §107, 63 Stat. 382; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act to the Code, see Short Title note set out under section 471 of this title and Tables.

CODIFICATION

Section was formerly classified to section 630e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 217 of Title 41, Public Contracts.

TRANSFER OF FUNCTIONS

For transfer of functions and abolition of Bureau of Federal Supply, see section 752 of this title.

For transfer of functions of War Assets Administration to General Services Administration, see section 105 of act June 30, 1949, ch. 288, 63 Stat. 381.

For transfer of functions and abolition of Federal Works Agency, see section 753 of this title.

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Em-

ployees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

TRANSFER OF RECORDS, FACILITIES, ETC.

Section 4 of Ex. Ord. No. 10579, Dec. 1, 1954, 19 F.R. 7925, set out as a note under section 486 of this title, provided for transfer of records, facilities personnel, and appropriations by Director of Bureau of the Budget [now Director of Office of Management and Budget] to Administrator of General Services for purpose of inter-agency motor-vehicle pools and systems.

§ 755a. Transfer of unobligated GSA funds; major equipment acquisitions

For fiscal year 1993 and thereafter, at no later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available, unobligated balances of operating expenses and salaries and expenses appropriations available to GSA during such fiscal year may be transferred and merged into the "Major equipment acquisitions and development activity" of the Salaries and Expenses, General Management and Administration appropriation account for agency-wide acquisition of capital equipment, automated data processing systems, and for financial management and management information systems needed to implement the Chief Financial Officers Act, Public Law 101-576, and any other laws or regulations. The unobligated balances transferred shall remain available until expended: *Provided*, That any proposed use of these transferred funds in fiscal year 1993 and thereafter shall only be made after advance approval by the Committees on Appropriations of the House and Senate.

(Pub. L. 103-123, title IV, §5, Oct. 28, 1993, 107 Stat. 1246.)

REFERENCES IN TEXT

The Chief Financial Officers Act, referred to in text, probably means the Chief Financial Officers Act of 1990, Pub. L. 101-576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

CODIFICATION

Section was enacted as part of the Independent Agencies Appropriations Act, 1994, and as part of the Treasury, Postal Service, and General Government Appropriations Act, 1994, and not as part of the Federal Property and Administrative Services Act of 1949 part of which comprises this chapter.

§ 756. General Supply Fund

(a) Creation and composition of Fund; availability; overhead costs

There is authorized to be set aside in the Treasury a special fund which shall be known as the General Supply Fund. Such fund shall be composed of the assets of the general supply fund (including any surplus therein) created by section 3 of the Act of February 27, 1929 (45 Stat. 1342; 41 U.S.C. 7c), and transferred to the Administrator by section 752 of this title, and sums as may be appropriated thereto and the value, as

determined by the Administrator, of inventories of personal property from time to time transferred to the Administrator by other executive agencies under authority of section 481(a)(2) of this title to the extent that payment is not made or credit allowed therefor, and the fund shall assume all of the liabilities, obligations, and commitments of the general supply fund created by such Act of February 27, 1929. The General Supply Fund shall be available for use by or under the direction and control of the Administrator (1) for procuring personal property (including the purchase from or through the Public Printer, for warehouse issue, of standard forms, blankbook work, standard specifications, and other printed material in common use by Federal agencies not available through the Superintendent of Documents) and nonpersonal services for the use of Federal agencies in the proper discharge of their responsibilities, (2) for paying the purchase price, transportation of personal property and services, and the cost of personal services employed directly in the repair, rehabilitation, and conversion of personal property, and (3) for paying other direct costs of, and indirect costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through such Administration.

(b) Payments by requisitioning agencies; fixing of prices; advance of funds

Payment by requisitioning agencies shall be at prices fixed by the Administrator. Such prices shall be fixed at levels so as to recover so far as practicable the applicable purchase price, the transportation cost, inventory losses, the cost of personal services employed directly in the repair, rehabilitation, and conversion of personal property, and the cost of amortization and repair of equipment utilized for lease or rent to executive agencies. Such prices shall also include an additional charge to recover properly allocable costs payable by the General Supply Fund under subsection (a)(3) of this section with respect to the supplies or services concerned. Requisitioning agencies shall pay by advance of funds in all cases where it is determined by the Administrator that there is insufficient capital otherwise available in the General Supply Fund. Advances of funds also may be made by agreement between the requisitioning agencies and the Administrator. Where an advance of funds is not made, the General Services Administration shall be reimbursed promptly out of funds of the requisitioning agency in accordance with accounting procedures approved by the Comptroller General: *Provided*, That in any case where payment shall not have been made by the requisitioning agency within forty-five days after the date of billing by the Administrator or the date on which an actual liability for personal property or services is incurred by the Administrator, whichever is the later, reimbursement may be obtained by the Administrator by the issuance of transfer and counterwarrants, or other lawful transfer documents, supported by itemized invoices.

(c) Credits to Fund

The General Supply Fund shall be credited with all reimbursements, advances of funds, and refunds or recoveries relating to personal property or services procured through the fund, including the net proceeds of disposal of surplus personal property procured through the fund and receipts from carriers and others for loss of, or damage to, personal property procured through the fund; and the same are reappropriated for the purposes of the fund.

(d) Repealed. Pub. L. 87-600, § 1(c), Aug. 24, 1962, 76 Stat. 401

(e) Audit; surplus; report to Congress

(1) As of September 30 of each year, there shall be covered into the United States Treasury as miscellaneous receipts any surplus in the General Supply Fund, all assets, liabilities, and prior losses considered, above the amounts transferred or appropriated to establish and maintain said fund.

(2) The Comptroller General shall make audits of the General Supply Fund in accordance with the provisions of chapter 35 of title 31 and make reports on the results thereof.

(f) Additional uses of Fund

Subject to the requirements of subsections (a) to (e) of this section, the General Supply Fund also may be used for the procurement of personal property and nonpersonal services authorized to be acquired by mixed-ownership Government corporations, or by the municipal government of the District of Columbia, or by a requisitioning non-Federal agency when the function of a Federal agency authorized to procure for it is transferred to the General Services Administration.

(g) Material tests; fees; disposition of fees

Whenever any producer or vendor shall tender any article or commodity for sale or lease to the General Services Administration or to any procurement authority acting under the direction and control of the Administrator pursuant to this Act, the Administrator is authorized in his discretion, with the consent of such producer or vendor, to cause to be conducted, in such manner as the Administrator shall specify, such tests as he shall prescribe either to determine whether such article or commodity conforms to prescribed specifications and standards, or to aid in the development of contemplated specifications and standards. When the Administrator determines that the making of such tests will serve predominantly the interest of such producer or vendor, he shall charge such producer or vendor a fee which shall be fixed by the Administrator in such amount as will recover the cost of conducting such tests, including all components of such costs, determined in accordance with accepted accounting principles. When the Administrator determines that the making of such tests will not serve predominantly the interest of such producer or vendor, he shall charge such producer or vendor such fee as he shall determine to be reasonable for the furnishing of such testing service. All such fees collected by the Administrator may be deposited in the general supply fund to be used for any purpose authorized by subsection (a) of this section.

(June 30, 1949, ch. 288, title I, §109, 63 Stat. 382; Sept. 5, 1950, ch. 849, §§1, 2(a), (b), 3, 64 Stat. 578, 579; July 12, 1952, ch. 703, §1(c)–(e), 66 Stat. 593; July 5, 1960, Pub. L. 86–591, 74 Stat. 330; Oct. 4, 1961, Pub. L. 87–372, 75 Stat. 802; Aug. 24, 1962, Pub. L. 87–600, 76 Stat. 401; Jan. 2, 1975, Pub. L. 93–604, title VII, §701, 88 Stat. 1963; Apr. 21, 1976, Pub. L. 94–273, §2(19), 90 Stat. 375; Dec. 22, 1987, Pub. L. 100–202, §101(m) [title VI, §619(a), (b)], 101 Stat. 1329–390, 1329–427.)

REFERENCES IN TEXT

Act of February 27, 1929, referred to in subsec. (a), is act Feb. 27, 1929, ch. 354, 45 Stat. 1341, as amended, which enacted section 289 of this title and sections 7a to 7c, and 7d of Title 41, Public Contracts. Sections 7a to 7c, and 7d of Title 41 were repealed by act June 30, 1949, ch. 288, title VI, §602(a)(29)–(31), 63 Stat. 401, renumbered Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (g), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act to the Code, see Short Title note set out under section 471 of this title and Tables.

CODIFICATION

In subsec. (e)(2), “chapter 35 of title 31” substituted for “the Accounting and Auditing Act of 1950 [31 U.S.C. 65 et seq.]” on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 630g of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 219 of Title 41, Public Contracts.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–202, §101(m) [title VI, §619(a)], added cl. (3).

Subsec. (b). Pub. L. 100–202, §101(m) [title VI, §619(b)], inserted provision requiring that prices also include an additional charge to recover properly allocable costs payable by the General Supply Fund.

1976—Subsec. (e)(1). Pub. L. 94–273 substituted “September” for “June”.

1975—Subsec. (e). Pub. L. 93–604 substantially reenacted existing provisions and substituted requirement that the audit of the General Supply Fund shall be made in accordance with the Accounting and Auditing Act of 1950 for requirement that the audit shall be made as of June 30, and struck out requirement that the Comptroller General shall report to the Congress annually the results of the audit, together with such recommendations as he may have regarding the status and operations of the fund.

1962—Subsec. (a). Pub. L. 87–600, §1(a), (d), substituted “transportation of personal property and services” for “transportation to first storage point of supplies and services”.

Subsec. (b). Pub. L. 87–600, §1(b), (d), struck out “to first storage point” after “the transportation cost”, and requirement that until July 1, 1950, prices were to be fixed in accordance with law and regulations applicable on July 1, 1949, to prices fixed by the Director of the Bureau of Federal Supply, and substituted “actual liability for personal property” for “actual liability for supplies”.

Subsec. (c). Pub. L. 87–600, §1(d), substituted “personal property” for “supplies” wherever appearing.

Subsec. (d). Pub. L. 87–600, §1(c), struck out subsec. (d) which authorized the establishment of a special deposit account for use by the chief, or any regional, disbursing officer, chargeable with payments properly chargeable to the fund.

Subsec. (f). Pub. L. 87–600, §1(d), substituted “personal property” for “supplies”.

1961—Subsec. (a). Pub. L. 87–372 struck out \$150,000,000 capital limitation of General Supply Fund.

1960—Subsec. (g). Pub. L. 86–591 authorized Administrator to cause tests to be conducted to aid in development of contemplated specifications and standards.

1952—Subsec. (a). Act July 12, 1952, §1(c), (d), inserted “and the value, as determined by the Administrator, of inventories of personal property from time to time transferred to the Administrator by other executive agencies under authority of section 201(a)(2) to the extent that payment is not made or credit allowed therefor” in second sentence after “thereto”, and increased General Supply Fund capital from \$75,000,000 to \$150,000,000.

Subsec. (f). Act July 12, 1952, §1(e), struck out proviso relating to prices charged by the Administrator to cover overhead.

1950—Subsec. (a). Act Sept. 5, 1950, §§1, 2(a), provided for purchases from or through the Public Printer, for warehouse issue, of standard forms, etc. in common use by Federal agencies which are not available through the Superintendent of Documents, and to eliminate the surcharge on the general supply fund transactions and to charge requisitioning agencies with the purchase price, etc. and cost of personal services employed directly in the repair, rehabilitation, and conversion of personal property.

Subsec. (b). Act Sept. 5, 1950, §§2(b), 3(a), fixed the applicable standard for pricing general supply fund commodities, and to reimburse the General Services Administration, where an advance of funds is not made out of funds of the requisitioning agency in accordance with accounting procedures approved by the Comptroller General.

Subsec. (g). Act Sept. 5, 1950, §3(b), added subsec. (g).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 101(m) [title VI, §619(d)] of Pub. L. 100–202 provided that: “The amendments made by this Act [probably means amendments made by section 101(m) [title VI, §619] of Pub. L. 100–202, amending this section] shall take effect not later than April 1, 1988.”

EFFECTIVE DATE OF 1950 AMENDMENT

Section 2(c) of act Sept. 5, 1950, provided that: “The amendments made by this section [amending this section] shall be effective on the date, not earlier than July 1, 1950, on which the Administrator of General Services shall determine that appropriated funds adequate to effectuate the purposes of such amendments have been made available.”

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

PLAN FOR IMPLEMENTATION OF AMENDMENTS

Section 101(m) [title VI, §619(c)] of Pub. L. 100–202 provided that: “Not later than February 15, 1988, the Administrator of General Services shall submit to the appropriate committees of the Congress a plan for the implementation of the amendments made by this Act [probably means amendments made by section 101(m) [title VI, §619] of Pub. L. 100–202, amending this section]. Such plan shall (1) fully describe and explain the accounting system (including the pricing and cost allocation methodology for supplies and services) to be used for such implementation, and (2) contain a schedule for completing actions necessary for such implementation.”

ADDITIONAL INCREASES IN GENERAL SUPPLY FUND

Provisions increasing the capital of the General Supply Fund were contained in the following appropriation acts:

June 5, 1981, Pub. L. 97–12, title I, 95 Stat. 75–\$222,300,000.

July 25, 1979, Pub. L. 96-38, title I, 93 Stat. 124—\$10,000,000.
 May 29, 1967, Pub. L. 90-21, title I, 81 Stat. 33—\$45,000,000.
 Dec. 19, 1963, Pub. L. 88-215, title I, 77 Stat. 434—\$30,000,000.
 May 17, 1963, Pub. L. 88-25, title I, 77 Stat. 26—\$25,000,000.
 Oct. 3, 1962, Pub. L. 87-741, title I, 76 Stat. 725—\$13,500,000.
 July 25, 1962, Pub. L. 87-545, title I, 76 Stat. 212—\$7,500,000.
 Aug. 17, 1961, Pub. L. 87-141, title I, 75 Stat. 351—\$6,000,000.
 Mar. 31, 1961, Pub. L. 87-14, title I, 75 Stat. 25—\$20,000,000.
 May 20, 1959, Pub. L. 86-30, title I, 73 Stat. 43—\$15,000,000.
 Aug. 28, 1958, Pub. L. 85-844, title I, 72 Stat. 1068—\$6,250,000.
 June 29, 1957, Pub. L. 85-69, title I, 71 Stat. 231—\$12,500,000.
 July 27, 1956, ch. 748, Ch. VI, 70 Stat. 686—\$8,000,000.
 June 27, 1956, ch. 452, title I, 70 Stat. 344—\$10,000,000.
 Sept. 27, 1950, ch. 1052, Ch. VIII, 64 Stat. 1056—\$30,000,000.
 Sept. 6, 1950, ch. 896, Ch. VIII, title I, 64 Stat. 706—\$4,000,000.
 June 30, 1949, ch. 286, title I, 63 Stat. 364—\$479,803.93.
 June 14, 1948, ch. 466, title I, 62 Stat. 416—\$1,500,000.
 Apr. 1, 1944, ch. 152, title I, 58 Stat. 162—\$1,000,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 483, 485, 491, 756b of this title; title 42 section 7588.

§ 756a. Retention of surplus generated from operation of General Supply Fund

The Administrator of the General Services Administration is authorized on and after June 5, 1981, to retain from any surplus generated from the operation of the General Supply Fund such sums as may be necessary to maintain a sufficient level of inventory of personal property to meet the needs of the Federal agencies.

(Pub. L. 97-12, title I, ch. XII, June 5, 1981, 95 Stat. 75.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriations and Rescission Act, 1981, and not as part of the Federal Property and Administrative Services Act of 1949 part of which comprises this chapter.

§ 756b. Periodic reimbursement for cost of equipment purchased for Congressional use; computation

(a) Notwithstanding any other provision of law, the Administrator of General Services is authorized to accept periodic reimbursement from the Senate and from the House of Representatives for the cost of any equipment purchased for the Senate or the House of Representatives, respectively, with funds from the General Supply Fund established under section 756 of this title. The amount of each such periodic reimbursement shall be computed by amortizing the total cost of each item of equipment over the useful life of the equipment, as determined by the Administrator, in consultation with the Sergeant at Arms and Doorkeeper of the Senate or the Clerk of the House of Representatives, as appropriate.

(b) Subsection (a) of this section applies to reimbursements to the General Supply Fund for

any equipment purchased for the Senate or the House of Representatives before, on, or after October 18, 1986.

(Pub. L. 99-500, §151, Oct. 18, 1986, 100 Stat. 1783-352, and Pub. L. 99-591, §151, Oct. 30, 1986, 100 Stat. 3341-355; Pub. L. 100-202, §101(i) [title I, §4], Dec. 22, 1987, 101 Stat. 1329-290, 1329-294.)

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was enacted as part of the Legislative Branch Appropriations Act, 1988, and not as part of the Federal Property and Administrative Services Act of 1949 part of which comprises this chapter.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-202 struck out “during fiscal year 1987” after “is authorized” in first sentence.

TRANSFER OF FUNCTIONS

Certain functions of Clerk of House of Representatives transferred to Director of Non-legislative and Financial Services by section 7 of House Resolution No. 423, One Hundred Second Congress, Apr. 9, 1992. Director of Non-legislative and Financial Services replaced by Chief Administrative Officer of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

§ 757. Information Technology Fund

(a) Establishment; content; costs and capital requirements

(1) There is established on the books of the Treasury and Information Technology Fund (hereinafter referred to as the “Fund”), which shall be available without fiscal year limitation. There are authorized to be appropriated to the Fund such sums as may be required. For purposes of subsection (b) of this section, the Fund shall consist of—

(A) the capital and assets of the Federal telecommunications fund established under this section (as in effect on December 31, 1986), which are in such fund on January 1, 1987;

(B) the capital and assets which are in the automatic data processing fund established under section 759 of this title (as in effect on December 31, 1986) which are in such fund on January 1, 1987; and

(C) the supplies and equipment transferred to the Administrator under sections 759 and 486(f) of this title, subject to any liabilities assumed with respect to such supplies and equipment.

(2) The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall submit plans concerning such requirements and such other information as may be requested for the review and approval of the Director of the Office of Management and Budget. Any change to the cost and capital requirements of the Fund for a fiscal year shall be made in the same manner as provided by this section for the initial fiscal year determination. If approved by the Director, the Administrator shall establish rates to be charged agencies provided, or to be provided, information technology resources through the Fund consistent with such approvals. Such cost and capital requirements may include funds—

(A) needed for the purchase (if the Administrator has determined that purchase is the

least costly alternative of information processing and transmission equipment, software, systems, and operating facilities necessary for the provision of such services;

(B) resulting from operations of the Fund, including the net proceeds of disposal of excess or surplus personal property and receipts from carriers and others for loss or damage to property; and

(C) which are appropriated, authorized to be transferred, or otherwise made available to the Fund.

These plans fulfill the requirements of sections 1512 and 1513 of title 31.

(b) Function and availability of Fund

The Fund shall—

(1) assume all of the liabilities, obligations, and commitments of the funds described in subparagraphs (A) and (B) of subsection (a)(1) of this section; and

(2) be available for expenses, including personal services and other costs, and for procurement (by lease, purchase, transfer, or otherwise) for efficiently providing information technology resources to Federal agencies and for the efficient management, coordination, operation, and utilization of such resources.

(c) Contract authority

(1) In the operation of the Fund, the Administrator is authorized to enter into multiyear contracts for the provision of information technology hardware, software, or services for periods not in excess of five years, if—

(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and any costs of cancellation or termination;

(B) such contract is awarded on a fully competitive basis; and

(C) the Administrator determines that—

(i) the need for the information technology hardware, software, or services being provided will continue over the period of the contract;

(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources; and

(iii) such a method of contracting will not exclude small business participation.

(2) Any cancellation costs incurred with respect to a contract entered into under this subsection shall be paid from currently available funds in the Fund.

(3) This subsection shall not be construed to limit the authority of the Administrator to procure equipment and services under section 481 of this title.

(d) Transfer of uncommitted balances

Following the close of each fiscal year, the uncommitted balance of any funds remaining in the Fund, after making provision for anticipated operating needs as determined by the Office of Management and Budget, shall be transferred to the general fund of the Treasury as miscellaneous receipts.

(e) Annual report

A report on the operation of the Fund shall be made annually by the Administrator to the Di-

rector of the Office of Management and Budget. Such report shall identify any proposed increases to the capital of the Fund and shall include a report on information processing equipment inventory, utilization, and acquisition.

(f) Information technology resources

For purposes of this section, the term “information technology resources” includes any service or equipment which had been acquired or provided under this section or section 759 of this title, including other information processing and transmission equipment, software, systems, operating facilities, supplies, and services related thereto, and maintenance and repair thereof.

(June 30, 1949, ch. 288, title I, §110, as added Oct. 23, 1962, Pub. L. 87-847, 76 Stat. 1117; amended Oct. 18, 1986, Pub. L. 99-500, §101(m) [title VIII, §821(a)(1)], 100 Stat. 1783-308, 1783-340, and Oct. 30, 1986, Pub. L. 99-591, §101(m) [title VIII, §821(a)(1)], 100 Stat. 3341-308, 3341-340; Nov. 3, 1989, Pub. L. 101-136, title IV, §25, 103 Stat. 808.)

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was formerly classified to section 630g-1 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1989—Subsec. (a)(2). Pub. L. 101-136 inserted at end “These plans fulfill the requirements of sections 1512 and 1513 of title 31.”

1986—Pub. L. 99-500 and Pub. L. 99-591 amended section generally, substituting provisions relating to the Information Technology Fund for former provisions relating to the Federal telecommunications fund.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 101(m) [title VIII, §833] of Pub. L. 99-500 and Pub. L. 99-591 provided that: “This title and the amendments made by this title [amending this section, sections 751 and 759 of this title, and sections 3501 to 3507, 3511, 3514, and 3520 of Title 44, Public Printing and Documents, enacting provisions set out as notes under sections 101 and 3503 of Title 44, amending provisions set out as a note under section 3503 of Title 44, and repealing provisions set out as a note under section 759 of this title] shall take effect on the date of enactment of this Act [Oct. 18, 1986], except as provided in section 813(b) [set out as a note under section 3503 of Title 44] and except that the provisions of section 821 and the amendments made by such section [amending this section and section 759 of this title, section 3504 of Title 44, and provisions set out as a note under section 3503 of Title 44] shall take effect on January 1, 1987.”

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 44 sections 3504, 3505.

§ 758. Personnel

(a) Appointment and compensation

The Administrator is authorized, subject to the civil-service and classification laws, to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of titles I, II, III, V, and VI of this Act.

(b) Temporary employment of experts or consultants; stenographic reporting services

To such extent as he finds necessary to carry out the provisions of titles I, II, III, V, and VI of this Act, the Administrator is authorized to procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract or appointment, and in such cases such service shall be without regard to the civil-service and classification laws, and except in the case of stenographic reporting services by organizations, without regard to section 5 of title 41.

(c) Utilization of personnel of other Federal agencies

Notwithstanding the provisions of section 973 of title 10 or of any other provision of law, the Administrator in carrying out the functions imposed upon him by this Act is authorized to utilize in his agency the services of officials, officers, and other personnel in other executive agencies, including personnel of the armed services, with the consent of the head of the agency concerned.

(June 30, 1949, ch. 288, title II, § 208, 63 Stat. 391; Sept. 5, 1950, ch. 849, § 7(b), (c), 64 Stat. 590.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsecs. (a) and (b), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in subsecs. (a) and (b), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

This Act, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act, including titles I, II, III, V and VI thereof, see Short Title note set out under section 471 of this title and Tables.

CODIFICATION

In subsec. (c), "section 973 of title 10" substituted for "sections 3544 and 8544 of title 10" on authority of Pub. L. 90-235, § 4(a)(5), (6), Jan. 2, 1968, 81 Stat. 759. Previously, "sections 3544 and 8544 of title 10" had been substituted for "section 1222 of the Revised Statutes (10 U.S.C. 576)" on authority of act Aug. 10, 1956, ch. 1041, § 49(b), 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

Section was formerly classified to section 630h of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

Section was also formerly classified to section 238 of Title 41, Public Contracts.

AMENDMENTS

1950—Subsecs. (a), (b). Act Sept. 5, 1950, substituted "V, and VI of this Act" for "and V of this Act".

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Office of Audits and Office of Investigations in General Services Administration transferred to Office of Inspector General in General Services Administration by section 9(a)(1)(K) of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, Government Organization and Employees, section 2 of which established such Office of Inspector General.

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

CROSS REFERENCES

Employment of experts and consultants generally, see section 3109 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 752 of this title.

§ 759. Procurement, maintenance, operation and utilization of automatic data processing equipment

(a) Authority of Administrator to coordinate and provide for purchase, lease and maintenance of equipment by Federal agencies

(1) The Administrator is authorized and directed to coordinate and provide for the economic and efficient purchase, lease, and maintenance of automatic data processing equipment by Federal agencies.

(2)(A) For purposes of this section, the term "automatic data processing equipment" means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching interchange, transmission, or reception, of data or information—

(i) by a Federal agency, or

(ii) under a contract with a Federal agency which—

(I) requires the use of such equipment, or

(II) requires the performance of a service or the furnishing of a product which is performed or produced making significant use of such equipment.

(B) Such term includes—

(i) computers;

(ii) ancillary equipment;

(iii) software, firmware, and similar procedures;

(iv) services, including support services; and

(v) related resources as defined by regulations issued by the Administrator for General Services.

(3) This section does not apply to—

(A) automatic data processing equipment acquired by a Federal contractor which is incidental to the performance of a Federal contract;

(B) radar, sonar, radio, or television equipment;

(C) the procurement by the Department of Defense of automatic data processing equipment or services if the function, operation, or use of which—

(i) involves intelligence activities;

(ii) involves cryptologic activities related to national security;

(iii) involves the command and control of military forces;

(iv) involves equipment which is an integral part of a weapon or weapons system; or

(v) is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing equipment used for

routine administrative and business applications such as payroll, finance, logistics, and personnel management; or

(D) the procurement of automatic data processing equipment or services by the Central Intelligence Agency.

(b) Procurement, maintenance and repair of equipment; transfer between agencies; joint utilization; establishment and operation of equipment pools and data processing centers; delegation of Administrator's authority

(1) Automatic data processing equipment suitable for efficient and effective use by Federal agencies shall be provided by the Administrator through purchase, lease, transfer of equipment from other Federal agencies, or otherwise, and the Administrator is authorized and directed to provide by contract or otherwise for the maintenance and repair of such equipment. In carrying out his responsibilities under this section the Administrator is authorized to transfer automatic data processing equipment between Federal agencies, to provide for joint utilization of such equipment by two or more Federal agencies, and to establish and operate equipment pools and data processing centers for the use of two or more such agencies when necessary for its most efficient and effective utilization.

(2) The Administrator may delegate to one or more Federal agencies authority to operate automatic data processing equipment pools and automatic data processing centers, and to lease, purchase, or maintain individual automatic data processing systems or specific units of equipment, including such equipment used in automatic data processing pools and automatic data processing centers, when such action is determined by the Administrator to be necessary for the economy and efficiency of operations, or when such action is essential to national defense or national security. The Administrator may delegate to one or more Federal agencies authority to lease, purchase, or maintain automatic data processing equipment to the extent to which he determines such action to be necessary and desirable to allow for the orderly implementation of a program for the utilization of such equipment.

(3) If the Administrator finds that a senior official of an agency designated pursuant to section 3506(b) of title 44 is sufficiently independent of program responsibility and has sufficient experience, resources, and ability to carry out fairly and effectively procurements under this section, the Administrator may delegate to such official the authority to lease, purchase, or maintain automatic data processing equipment pursuant to paragraph (2) of this subsection, except that any such delegation shall not relieve the Administrator of the responsibilities assigned to the Administrator under this section. A delegation by the Administrator under this subsection shall not preclude the Administrator from reviewing individual procurement requests if the Administrator determines that circumstances warrant such a review. The Administrator shall retain authority to revoke such delegations, both in general and with regard to any specific matter, including the authority to revoke a delegation of authority with respect to

a particular contract after award of the contract, except that the Administrator may revoke a delegation of authority after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.¹ In acting for the Administrator, any official to whom approval authority has been delegated under this subsection shall comply fully with the rules and regulations promulgated by the Administrator.

(c) Inapplicability of other inconsistent provisions of law

The proviso following paragraph (4) in section 481(a) of this title and the provisions of section 474(d) of this title shall have no application in the administration of this section. No other provision of this Act or any other Act which is inconsistent with the provisions of this section shall be applicable in the administration of this section.

(d) Standards and guidelines for Federal computer systems; promulgation, disapproval or modification, etc.

(1) The Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Bureau of Standards pursuant to section 278g-3(a)(2) and (3) of title 15, promulgate standards and guidelines pertaining to Federal computer systems, making such standards compulsory and binding to the extent to which the Secretary determines necessary to improve the efficiency of operation or security and privacy of Federal computer systems. The President may disapprove or modify such standards and guidelines if he determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be submitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

(2) The head of a Federal agency may employ standards for the cost-effective security and privacy of sensitive information in a Federal computer system within or under the supervision of that agency that are more stringent than the standards promulgated by the Secretary of Commerce, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

(3) The standards determined to be compulsory and binding may be waived by the Secretary of Commerce in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or cause a major adverse financial impact on the operator which is not offset by Government-wide savings. The Secretary may delegate to the head of one or more Federal agencies authority to waive such stand-

¹ So in original.

ards to the extent to which the Secretary determines such action to be necessary and desirable to allow for timely and effective implementation of Federal computer systems standards. The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44. Notice of each such waiver and delegation shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register.

(4) The Administrator shall revise the Federal information resources management regulations (41 CFR ch. 201) to be consistent with the standards and guidelines promulgated by the Secretary of Commerce under this subsection.

(5) As used in this subsection, the terms “Federal computer system” and “operator of a Federal computer system” have the meanings given in section 278g-3(d) of title 15.

(e) Limitations on authority of Administrator and Secretary of Commerce; notice and review of Administrator’s determinations

The authority conferred upon the Administrator and the Secretary of Commerce by this section shall be exercised subject to direction by the President and to fiscal and policy control exercised by the Office of Management and Budget. Authority so conferred upon the Administrator shall not be so construed as to impair or interfere with the determination by agencies of their individual automatic data processing equipment requirements, including the development of specifications for and the selection of the types and configurations of equipment needed. The Administrator shall not interfere with, or attempt to control in any way, the use made of automatic data processing equipment or components thereof by any agency. The Administrator shall provide adequate notice to all agencies and other users concerned with respect to each proposed determination whether or not the automatic data processing equipment will be provided by the Administrator or whether or not the authority to lease, purchase, or maintain the equipment will be delegated. If the Administrator denies an agency procurement request such denial shall be subject to review and decision by the Director of the Office of Management and Budget, unless the President otherwise directs. Such review and decision shall be made only on the basis of a written appeal, and such written appeal, together with any written communications to the Administrator or any officer or employee of the Office of Management and Budget concerning such denial shall be made available to the public.

(f) Automated data processing dispute resolution

(1) Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the “board”) shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions

of a delegation of procurement authority. Such review shall be conducted under the standard applicable to review of contracting officer final decisions by boards of contract appeals. The authority of the board to conduct such review shall include the authority to determine whether any procurement is subject to this section and the authority to review regulations to determine their consistency with applicable statutes. A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review. An interested party who has filed a protest under subchapter V of chapter 35 of title 31, with respect to a procurement or proposed procurement may not file a protest with respect to that procurement or proposed procurement under this subsection.

(2)(A) When a protest under this subsection is filed before the award of a contract in a protested procurement, the board, at the request of an interested party and within 10 days of the filing of the protest, shall hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

(B)(i) The board shall suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority unless the Federal agency concerned establishes that—

(I) absent action by the board, contract award is likely to occur within 30 days of the hearing; and

(II) urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

(ii) A suspension under this subparagraph shall not preclude the Federal agency concerned from continuing the procurement process up to but not including award of the contract unless the board determines such action is not in the best interests of the United States.

(3)(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

(I) the tenth day after the date of contract award; or

(II) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

(iii) The board shall hold the requested hearing within 5 days after the date of the filing of

the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10 or section 303B(e) of this Act [41 U.S.C. 253b(e)], within 5 days after the later of the date of the filing of the protest or the date of the debriefing.

(B) The board shall suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority to acquire any goods or services under the contract which are not previously delivered and accepted unless the Federal agency concerned establishes that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

(4)(A) The board shall conduct such proceedings and allow such discovery as may be required for the expeditious, fair, and reasonable resolution of the protest.

(B) Subject to any deadlines imposed by section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)), the board shall give priority to protests filed under this subsection. The board shall issue its final decision within 65 days after the date of the filing of the protest, unless the board's chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the board shall issue such decision within the longer period determined by the chairman. An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.

(C) The board may dismiss a protest that the board determines—

- (i) is frivolous;
- (ii) has been brought or pursued in bad faith;
- or
- (iii) does not state on its face a valid basis for protest.

(5)(A) In making a decision on the merits of protests brought under this section, the board shall accord due weight to the policies of this section and the goals of economic and efficient procurement set forth in this section. The board may consider any decision, determination, opinion, or statement made by the Director of the Office of Management and Budget or any officer of any other Federal agency regarding applicability of this section to a particular procurement, and may request the advice of the Director or such officer with regard to such applicability, but shall not be bound by any such decision, determination, opinion, or statement when determining whether a procurement is subject to this section.

(B) If the board determines that a challenged agency action violates a statute or regulation or the conditions of any delegation of procurement authority issued pursuant to this section, the board may suspend, revoke, or revise the procurement authority of the Administrator or the Administrator's delegation of procurement authority applicable to the challenged procurement.

(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, further declare an appropriate prevailing party to be entitled to the cost of fil-

ing and pursuing the protest (including reasonable attorneys' fees and consultant and expert witness fees), and bid and proposal preparation. However, no party (other than a small business concern (within the meaning of section 632(a) of title 15)) may be declared entitled to costs for consultants and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government, and no party (other than a small business concern (within the meaning of section 632(a) of title 15)) may be declared entitled to attorneys' fees that exceed \$150 per hour unless the board, on a case by case basis, determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31 for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.

(6)(A) The final decision of the board may be appealed by the head of the Federal agency concerned and by any interested party, including interested parties who intervene in any protest filed under this subsection, as set forth in the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(B) If the board revokes, suspends, or revises the procurement authority of the Administrator or the Administrator's delegation of procurement authority after the contract award, the affected contract shall be presumed valid as to all goods or services delivered and accepted under the contract before the suspension, revocation, or revision of such procurement authority or delegation.

(C) Nothing contained in this subsection shall affect the board's power to order any additional relief which it is authorized to provide under any statute or regulation. However, the procedures set forth in this subsection shall only apply to procurements conducted under the authority contained in this section. In addition, nothing contained in this subsection shall affect the right of any interested party to file a protest with the contracting agency or to file an action in a district court of the United States or the United States Court of Federal Claims.

(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the

expeditious disposition of protests filed under the authority of this subsection.

(B) The procedures shall provide that, in the computation of any period described in this subsection—

(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

(ii) the last day after such act, event, or default be included, unless—

(I) such last day is a Saturday, a Sunday, or a legal holiday; or

(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions cause the closing of the board in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has been brought or pursued in bad faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate procedural sanctions, including dismissal of the protest.

(8) Repealed. Pub. L. 103-355, title I, §1437(2), Oct. 13, 1994, 108 Stat. 3294.

(9) For purposes of this subsection:

(A) The term "protest" means a written objection by an interested party to any of the following:

(i) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

(ii) The cancellation of such a solicitation or other request.

(iii) An award or proposed award of such a contract.

(iv) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

(B) The term "interested party" means, with respect to a contract or proposed contract described in subparagraph (A), an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

(C) The term "prevailing party", with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.

(g) Procurement from sole source or by specific make and model

The justifications and approvals required by section 253(f)(1) of title 41 shall apply in the case

of any procurement under this section for which the minimum needs are so restrictive that only one manufacturer is capable of satisfying such needs. Such procurement includes either a sole source procurement or a procurement by specific make and model. Such justification and approval shall be required notwithstanding that more than one bid or offer is made or that the procurement obtains price competition and such procurement shall be treated as a procurement using procedures other than competitive procedures for purposes of section 417(b) of title 41.

(h) Data collection

(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each contract for such a procurement, the following:

(A) The procuring agency.

(B) The contractor.

(C) The automatic data processing equipment and services procured.

(D) The manufacturer of the equipment procured.

(E) The amount of the contract, to the extent that the amount is not proprietary information.

(F) The type of contract used.

(G) The extent of competition for award.

(H) Whether compatibility restrictions were used in awarding the contract.

(I) Significant modifications of the contract.

(J) Contract price, to the extent that the price is not proprietary information.

(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

(3) The Administrator—

(A) shall carry out a systematic, periodic review of information received under this subsection;

(B) shall use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

(C) may take appropriate corrective action regarding an agency's authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

(4) The Administrator shall take appropriate corrective action upon failure of a Federal agency to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or failure to comply with any applicable law or regulation.

(5) The Administrator shall require in the regulations implementing this subsection that (A) data collected pursuant to this subsection be drawn from existing Federal agency information; and (B) no new or additional information reporting requirements may be imposed on offerors or contractors to collect such data.

(i) Short title

This section may be cited as the "Brooks Automatic Data Processing Act".

(June 30, 1949, ch. 288, title I, §111, as added Oct. 30, 1965, Pub. L. 89-306, 79 Stat. 1127; amended 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; July 18, 1984, Pub. L. 98-369, div. B, title VII, §2713(a), 98 Stat. 1182; Nov. 8, 1985, Pub. L. 99-145, title IX, §961(c), title XIII, §1304(c)(1), 99 Stat. 703, 742; Oct. 18, 1986, Pub. L. 99-500, §101(m) [title VIII, §§821(b)(1), 822-825], 100 Stat. 1783-308, 1783-342 to 1783-344, and Oct. 30, 1986, Pub. L. 99-591, §101(m) [title VIII, §§821(b)(1), 822-825], 100 Stat. 3341-308, 3341-342 to 3341-344; Jan. 8, 1988, Pub. L. 100-235, §4, 101 Stat. 1728; Oct. 29, 1992, Pub. L. 102-572, title IX, §902(b)(1), 106 Stat. 4516; Oct. 13, 1994, Pub. L. 103-355, title I, §§1431-1439, title X, §10005(f)(3), 108 Stat. 3291-3295, 3409.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended, known as the Federal Property and Administrative Services Act of 1949. For complete classification of this Act to the Code, see Short Title note set out under section 471 of this title and Tables.

The Contract Disputes Act of 1978, referred to in subsec. (f)(6)(A), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section was formerly classified to section 630g-2 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103-355, §1431, inserted before period at end of third sentence “, including the authority to revoke a delegation of authority with respect to a particular contract after award of the contract, except that the Administrator may revoke a delegation of authority after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.”

Subsec. (f)(1). Pub. L. 103-355, §1432, amended first sentence generally. Prior to amendment, first sentence read as follows: “Upon request of an interested party in connection with any procurement which is subject to this section (including procurements subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the ‘board’), shall review any decision by a contracting officer alleged to violate a statute or regulation.”

Subsec. (f)(2)(B). Pub. L. 103-355, §1433(a)(1), designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i), and added cl. (ii).

Subsec. (f)(3)(A). Pub. L. 103-355, §1433(a)(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “If the board receives notice of a protest under this subsection after the contract has been awarded but within 10 days after the contract award, the board shall, at the request of an interested party and within 10 days after the date of the filing of the protest, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority for the challenged procurement on an interim basis until the board can decide the protest.”

Subsec. (f)(4)(B). Pub. L. 103-355, §1433(b), substituted “65 days” for “45 working days” and inserted at end “An amendment which adds a new ground of protest

should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.”

Subsec. (f)(4)(C). Pub. L. 103-355, §1434, added subpar. (C) and struck out former subpar. (C) which read as follows: “The board may dismiss a protest the board determines is frivolous or which, on its face, does not state a valid basis for protest.”

Subsec. (f)(5)(C). Pub. L. 103-355, §1435(a), added subpar. (C) and struck out former subpar. (C) which read as follows: “Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, further declare an appropriate interested party to be entitled to the costs of—

“(i) filing and pursuing the protest, including reasonable attorney’s fees, and

“(ii) bid and proposal preparation.”

Subsec. (f)(5)(D), (E). Pub. L. 103-355, §1436, added subpars. (D) and (E).

Subsec. (f)(7). Pub. L. 103-355, §1437(1), added par. (7).

Subsec. (f)(8). Pub. L. 103-355, §1437(2), struck out par. (8) which read as follows: “Not later than January 15, 1985, the board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.”

Subsec. (f)(9). Pub. L. 103-355, §1438(1), substituted “subsection:” for “subsection—” in introductory provisions.

Subsec. (f)(9)(A). Pub. L. 103-355, §1438(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “the term ‘protest’ means a written objection by an interested party to a solicitation by a Federal agency for bids or proposals for a proposed contract for the procurement of property or services or a written objection to a proposed award or the award of such a contract; and”.

Subsec. (f)(9)(B). Pub. L. 103-355, §1438(3), substituted “The term” for “the term”.

Subsec. (f)(9)(C). Pub. L. 103-355, §1435(b), added subpar. (C).

Subsec. (h). Pub. L. 103-355, §1439, added subsec. (h).

Subsec. (i). Pub. L. 103-355, §10005(f)(3), added subsec. (i).

1992—Subsec. (f)(6)(C). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1988—Subsec. (d). Pub. L. 100-235 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The Secretary of Commerce is authorized (1) to provide agencies, and the Administrator of General Services in the exercise of the authority delegated in this section, with scientific and technological advisory services relating to automatic data processing and related systems, and (2) to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards. The Secretary of Commerce is authorized to undertake the necessary research in the sciences and technologies of automatic data processing computer and related systems, as may be required under provisions of this subsection.”

1986—Subsec. (a). Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §822(a)], designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b)(3). Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §822(b)], added par. (3).

Subsec. (c). Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §821(b)(1)], redesignated subsec. (e) as (c) and struck out former subsec. (c) which provided for establishment of automatic data processing fund and uses of fund and required an annual report.

Subsec. (d). Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §821(b)(1)], redesignated subsec. (f) as (d) and struck out former subsec. (d) which related to capital of automatic data processing fund, credits for fund, and transfer of net income to Treasury at close of each fiscal year.

Subsec. (e). Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §821(b)(1)(B)], redesignated subsec. (g) as (e). Former subsec. (e) redesignated (c).

Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §825], substituted “exercised by the Office of Management and Budget” for “exercised by the Bureau of the Budget”.

Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §823], substituted “whether or not the automatic data processing equipment will be provided by the Administrator or whether or not the authority to lease, purchase, or maintain the equipment will be delegated” for “specifically affecting them or the automatic data processing equipment or components used by them” and “If the Administrator denies an agency procurement request such denial shall be subject to review and decision by the Director of the Office of Management and Budget, unless the President otherwise directs. Such review and decision shall be made only on the basis of a written appeal, and such written appeal, together with any written communications to the Administrator or any officer or employee of the Office of Management and Budget concerning such denial shall be made available to the public” for “In the absence of mutual agreement between the Administrator and the agency or user concerned, such proposed determinations shall be subject to review and decision by the Office of Management and Budget unless the President otherwise directs”.

Subsec. (f). Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §821(b)(1)(B)], redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §824], in par. (1) substituted “in connection with any procurement which is subject to this section” for “in connection with any procurement conducted under the authority of this section”, “subject to delegation” for “conducted under delegations” and inserted provision that the authority of the board include authority to determine whether a procurement is subject to this section and authority to review regulations for consistency and providing that a proceeding, decision, or order not be subject to interlocutory appeal or review, and in par. (5)(A) inserted provision that the board may consider opinions of other Federal agencies but not be bound by such opinions.

Subsecs. (g) to (i). Pub. L. 99-500 and Pub. L. 99-591, §101(m) [title VIII, §821(b)(1)(B)], redesignated subsecs. (g) to (i) as (e) to (g), respectively.

1985—Subsec. (h)(3)(A). Pub. L. 99-145, §1304(c)(1), substituted “board” for “Board”.

Subsec. (i). Pub. L. 99-145, §961(c), added subsec. (i).

1984—Subsec. (h). Pub. L. 98-369 added subsec. (h).

CHANGE OF NAME

Committee on Government Operations of House of Representatives changed to Committee on Government Reform and Oversight of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 101(m) [title VIII, §821(b)(1)] of Pub. L. 99-500 and Pub. L. 99-591 effective Jan. 1, 1987, and amendment by section 101(m) [title VIII, §§822-825] of Pub. L. 99-500 and Pub. L. 99-591 effective Oct. 18, 1986, see section 101(m) [title VIII, §833] of Pub. L. 99-500 and Pub. L. 99-591, set out as a note under section 757 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by section 961(c) of Pub. L. 99-145 effective as if included in enactment of Competition in Contracting Act of 1984, Pub. L. 98-369, div. B, title VII, see section 961(e) of Pub. L. 99-145, set out as a note under section 2304 of Title 10, Armed Forces.

EFFECTIVE AND TERMINATION DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, title VII, §2713(b), July 18, 1984, 98 Stat. 1184, which provided that amendment of this section by section 2713 of Pub. L. 98-369 would cease to be effective on Jan. 15, 1988, was repealed by Pub. L. 99-500, §101(m) [title VIII, §831], Oct. 18, 1986, 100 Stat. 1783-308, 1783-344, and Pub. L. 99-591, §101(m) [title VIII, §831], Oct. 30, 1986, 100 Stat. 3341-308, 3341-344.

Amendment by Pub. L. 98-369 applicable with respect to any protest filed after Jan. 14, 1985, see section 2751(b) of Pub. L. 98-369, set out as a note under section 251 of Title 41, Public Contracts.

DELEGATION OF FUNCTIONS

Functions, authority, and responsibility of Director of Office of Management and Budget under this section delegated to Administrator for Office of Information and Regulatory Affairs in Office of Management and Budget pursuant to Pub. L. 96-511, §3(b), Dec. 11, 1980, 94 Stat. 2825, set out as a note under section 3503 of Title 44, Public Printing and Documents.

Functions of Office of Management and Budget approving standards on behalf of President pursuant to subsec. (f)(2) of this section transferred to Secretary of Commerce, see section 2 of Ex. Ord. No. 11717, May 9, 1973, 38 F.R. 12315, set out as a note under section 501 of Title 31, Money and Finance.

DEFINITIONS

The definitions in section 472 of this title apply to this chapter.

COMPUTER SECURITY

Sections 1, 2, 5-8 of Pub. L. 100-235 provided that:

“SECTION 1. SHORT TITLE.

“This Act [enacting sections 278g-3 and 278g-4 of Title 15, Commerce and Trade, amending section 759 of this title and section 272 of Title 15, and enacting provisions set out as a note under section 271 of Title 15] may be cited as the ‘Computer Security Act of 1987’.

“SEC. 2. PURPOSE.

“(a) IN GENERAL.—The Congress declares that improving the security and privacy of sensitive information in Federal computer systems is in the public interest, and hereby creates a means for establishing minimum acceptable security practices for such systems, without limiting the scope of security measures already planned or in use.

“(b) SPECIFIC PURPOSES.—The purposes of this Act are—

“(1) by amending the Act of March 3, 1901 [15 U.S.C. 271 et seq.], to assign to the National Bureau of Standards responsibility for developing standards and guidelines for Federal computer systems, including responsibility for developing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems, drawing on the technical advice and assistance (including work products) of the National Security Agency, where appropriate;

“(2) to provide for promulgation of such standards and guidelines by amending section 111(d) of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 759(d)];

“(3) to require establishment of security plans by all operators of Federal computer systems that contain sensitive information; and

“(4) to require mandatory periodic training for all persons involved in management, use, or operation of

Federal computer systems that contain sensitive information.

“SEC. 5. FEDERAL COMPUTER SYSTEM SECURITY TRAINING.

“(a) IN GENERAL.—Each Federal agency shall provide for the mandatory periodic training in computer security awareness and accepted computer security practice of all employees who are involved with the management, use, or operation of each Federal computer system within or under the supervision of that agency. Such training shall be—

“(1) provided in accordance with the guidelines developed pursuant to section 20(a)(5) of the National Bureau of Standards Act (as added by section 3 of this Act) [15 U.S.C. 278g-3(a)(5)], and in accordance with the regulations issued under subsection (c) of this section for Federal civilian employees; or

“(2) provided by an alternative training program approved by the head of that agency on the basis of a determination that the alternative training program is at least as effective in accomplishing the objectives of such guidelines and regulations.

“(b) TRAINING OBJECTIVES.—Training under this section shall be started within 60 days after the issuance of the regulations described in subsection (c). Such training shall be designed—

“(1) to enhance employees’ awareness of the threats to and vulnerability of computer systems; and

“(2) to encourage the use of improved computer security practices.

“(c) REGULATIONS.—Within six months after the date of the enactment of this Act [Jan. 8, 1988], the Director of the Office of Personnel Management shall issue regulations prescribing the procedures and scope of the training to be provided Federal civilian employees under subsection (a) and the manner in which such training is to be carried out.

“SEC. 6. ADDITIONAL RESPONSIBILITIES FOR COMPUTER SYSTEMS SECURITY AND PRIVACY.

“(a) IDENTIFICATION OF SYSTEMS THAT CONTAIN SENSITIVE INFORMATION.—Within 6 months after the date of enactment of this Act [Jan. 8, 1988], each Federal agency shall identify each Federal computer system, and system under development, which is within or under the supervision of that agency and which contains sensitive information.

“(b) SECURITY PLAN.—Within one year after the date of enactment of this Act [Jan. 8, 1988], each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 759(d)], establish a plan for the security and privacy of each Federal computer system identified by that agency pursuant to subsection (a) that is commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of the information contained in such system. Copies of each such plan shall be transmitted to the National Bureau of Standards and the National Security Agency for advice and comment. A summary of such plan shall be included in the agency’s five-year plan required by section 3505 of title 44, United States Code. Such plan shall be subject to disapproval by the Director of the Office of Management and Budget. Such plan shall be revised annually as necessary.

“SEC. 7. DEFINITIONS.

“As used in this Act, the terms ‘computer system’, ‘Federal computer system’, ‘operator of a Federal computer system’, ‘sensitive information’, and ‘Federal agency’ have the meanings given in section 20(d) of the National Bureau of Standards Act (as added by section 3 of this Act) [15 U.S.C. 278g-3(d)].

“SEC. 8. RULES OF CONSTRUCTION OF ACT.

“Nothing in this Act, or in any amendment made by this Act, shall be construed—

“(1) to constitute authority to withhold information sought pursuant to section 552 of title 5, United States Code; or

“(2) to authorize any Federal agency to limit, restrict, regulate, or control the collection, maintenance, disclosure, use, transfer, or sale of any information (regardless of the medium in which the information may be maintained) that is—

“(A) privately-owned information;

“(B) disclosable under section 552 of title 5, United States Code, or other law requiring or authorizing the public disclosure of information; or

“(C) public domain information.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 757 of this title; title 10 sections 2305, 2306b, 2315; title 15 section 278g-3; title 28 section 612; title 31 sections 1558, 3552; title 38 section 310; title 41 section 253b; title 42 section 8287; title 44 sections 3502, 3504, 3505, 3506, 3518; title 49 section 40112; title 50 section 403c.

§ 760. Federal information centers

(a) Establishment

The Administrator is authorized to establish within the General Services Administration a nationwide network of Federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

(b) Rules and regulations

The Administrator is authorized to prescribe such rules and regulations as may be necessary to the functioning of the Federal information centers.

(c) Authorization of appropriations

There is hereby authorized to be appropriated \$7,000,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for each succeeding fiscal year for carrying out the purposes of this section.

(June 30, 1949, ch. 288, title I, §112, as added Oct. 20, 1978, Pub. L. 95-491, §2(a), 92 Stat. 1641.)

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-491, §1, Oct. 20, 1978, 92 Stat. 1641, provided: “That this Act [enacting this section] may be cited as the ‘Federal Information Centers Act’.”

§ 761. Consumer Information Center Fund, General Services Administration

Notwithstanding any other provision of law, there is hereby established in the Treasury of the United States a Consumer Information Center Fund, General Services Administration, for the purpose of disseminating Federal Government consumer information to the public and for other related purposes. There shall be deposited into the fund for fiscal year 1983 and subsequent fiscal years: (A) Appropriations from the general funds of the Treasury for Consumer Information Center activities; (B) User fees from the public; (C) Reimbursements from other Federal agencies for costs of distributing publications; and (D) Any other income incident to Consumer Information Center activities. Monies deposited into the fund shall be available for expenditure for Consumer Information Center activities in such amounts as are specified in appropriation Acts. Any unobligated balances at the end of the fiscal year shall remain in the fund and shall be available for authorization in

appropriation Acts for subsequent fiscal years. This fund shall assume all the liabilities, obligations, and commitments of the said Consumer Information Center account. The revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the amount of \$5,415,000 during fiscal year 1983. Administrative expenses of the Consumer Information Center in fiscal year 1983 shall not exceed \$1,382,000. For the purposes of the fund, administrative expenses shall be defined as those expenses previously paid from appropriations to the Consumer Information Center. Revenues and collections accruing to this fund during fiscal year 1983 in excess of \$6,797,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriation Acts.

(Pub. L. 98-63, title I, §101, July 30, 1983, 97 Stat. 321.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriations Act, 1983, and not as part of the Federal Property and Administrative Services Act of 1949 a part of which comprises this chapter.

§ 762. Definitions

As used in sections 762 to 762d of this title—

(1) The term “TDD” means a Telecommunications Device for the Deaf, a machine which employs graphic communications in the transmission of coded signals through the nationwide telecommunications system.

(2) The term “Federal agency” has the meaning given such term by section 472(b) of this title.

(Pub. L. 100-542, §2, Oct. 28, 1988, 102 Stat. 2721.)

SHORT TITLE

Section 1 of Pub. L. 100-542 provided that: “This Act [enacting this section and sections 762a to 762d of this title] may be cited as the ‘Telecommunications Accessibility Enhancement Act of 1988.’”

§ 762a. Federal telecommunications system requirements

(a) Accessibility of telecommunications systems

The Administrator of General Services, after consultation with the Architectural and Transportation Barriers Compliance Board, the Interagency Committee on Computer Support of Handicapped Employees, the Federal Communications Commission, and affected Federal agencies, shall, by regulation, take such actions in accordance with this section as may be necessary to assure that the Federal telecommunications system is fully accessible to hearing-impaired and speech-impaired individuals, including Federal employees, for communications with and within Federal agencies.

(b) Specific requirement

In carrying out subsection (a) of this section, the Administrator shall—

(1) provide for the continuation of the existing Federal relay system for users of TDD’s;

(2) within 90 days after October 28, 1988, expand such relay system by employing at least one additional operator;

(3) within 180 days after October 28, 1988—

(A) conduct, as part of the rulemaking proceeding required by subsection (a) of this section, an analysis of modifications to the Federal telecommunications system that the Administrator, in his discretion, determines to be necessary to achieve the objectives of subsection (a) of this section; and

(B) submit a report on the results of such analysis to each House of the Congress;

(4) within 180 days after completion of such analysis, prescribe the regulations required by subsection (a) of this section;

(5) assemble, publish, and maintain a directory of TDD and other devices used by Federal agencies to comply with such regulations, and publish, in Federal agency directories, access numbers of TDD’s and such other devices; and

(6) after consultation with the Architectural and Transportation Barriers Compliance Board, adopt the design of a standard logo to signify the presence of a TDD or other device used by a Federal agency to comply with such regulations.

(c) Congressional oversight

The Administrator shall not prescribe the regulation required by subsection (a) of this section before the end of the 90-day period beginning on the date the Administrator submits the report required by subsection (b)(3)(B) of this section.

(Pub. L. 100-542, §3, Oct. 28, 1988, 102 Stat. 2721.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 762, 762b of this title.

§ 762b. Additional requirements

(a) Support for research

The Administrator shall, in consultation with the Federal Communications Commission, seek to promote research by Federal agencies, State agencies, and private entities to reduce the cost and improve the capabilities of telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

(b) Planning to assimilate technological developments

The Administrator, in planning future alterations to and modifications of the Federal telecommunications system, shall take into account results of the analysis required by section 762a(b)(3) of this title and any technological improvements in telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

(Pub. L. 100-542, §4, Oct. 28, 1988, 102 Stat. 2722.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 762 of this title.

§ 762c. Inquiry regarding interstate TDD relay system

The Federal Communications Commission shall, within 9 months after October 28, 1988, complete its existing inquiry regarding an interstate relay system for users of TDD’s.

(Pub. L. 100-542, §5, Oct. 28, 1988, 102 Stat. 2722.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 762 of this title.

§ 762d. TDD installation by Congress

As soon as practicable, each House of the Congress shall establish a policy under which Members of the House of Representatives and the Senate, as the case may be, may obtain TDD's for use in communicating with hearing-impaired and speech-impaired individuals, and for the use of hearing-impaired and speech-impaired employees.

(Pub. L. 100-542, § 6, Oct. 28, 1988, 102 Stat. 2722.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 762 of this title.

CHAPTER 17—ALASKA COMMUNICATIONS DISPOSAL

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

771. Definitions.

SUBCHAPTER II—TRANSFER OF GOVERNMENT-OWNED LONG-LINES COMMUNICATION FACILITIES IN AND TO ALASKA

781. Matters relative to transfer.

- (1) Authorization, Executive approval, adequate consideration, scope of transfer, qualification of transferee, necessary or appropriate actions and powers.
- (2) Procedures and methods.
- (3) Applicability of antitrust provisions.
- (4) Documents of title or other property interests; mineral rights exception; other necessary or proper action; copy of instrument to Secretary of the Interior.
- (5) Consent of Secretary concerned.
- (6) Solicitation of offers to purchase.

782. National defense considerations; public interest; qualification of transferee; disqualification of aliens.

783. Agreements for transfer; services without interruption, change of rates and charges, and finality of transfer.

784. Approval of Federal Communications Commission.

785. Gross proceeds as miscellaneous receipts in the Treasury.

786. Reports to President and Congress.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

791. Communications Act of 1934; nonmodification.

792. Authorization of appropriations.

SUBCHAPTER I—GENERAL PROVISIONS

§ 771. Definitions

In this chapter—

(1) "Transfer" means the conveyance by the United States of any element of ownership, including but not restricted to any estate or interest in property, and franchise rights, by sale, exchange, lease, easement, or permit, for cash, credit, or other property with or without warranty.

(2) "Long-lines communication facilities" means the transmission systems connecting points inside the State with each other and with points outside the State by radio or wire,

and includes all kinds of property and rights-of-way necessary to accomplish this interconnection.

(3) "Agency concerned" means any department, agency, wholly owned corporation, or instrumentality of the United States.

(Pub. L. 90-135, title I, § 101, Nov. 14, 1967, 81 Stat. 441.)

SHORT TITLE

Section 1 of Pub. L. 90-135 provided: "That this Act [enacting this chapter] may be cited as the 'Alaska Communications Disposal Act'."

SUBCHAPTER II—TRANSFER OF GOVERNMENT-OWNED LONG-LINES COMMUNICATION FACILITIES IN AND TO ALASKA

§ 781. Matters relative to transfer**(1) Authorization, Executive approval, adequate consideration, scope of transfer, qualification of transferee, necessary or appropriate actions and powers**

Subject to the provisions of section 782 of this title, and notwithstanding provisions of any other law, the Secretary of Defense or his designee, with the advice, assistance, and, in the case of any agency not under the jurisdiction of the Secretary of Defense, the consent of the agency concerned, and after approval of the President, is authorized to and shall transfer for adequate consideration any or all long-lines communication facilities in or to Alaska under the jurisdiction of the Federal Government to any person qualifying under the provisions of section 782 of this title, and may take such action and exercise such powers as may be necessary or appropriate to effectuate the purposes of this chapter.

(2) Procedures and methods

Transfers under this subchapter shall be made in accordance with the procedures and methods required by section 484(e), (1), (2), and (3) of this title, except that "the Secretary of Defense or his designee" shall be substituted for all references therein to "the Administrator".

(3) Applicability of antitrust provisions

The requirements of section 488 of this title shall apply to transfers under this subchapter.

(4) Documents of title or other property interests; mineral rights exception; other necessary or proper action; copy of instrument to Secretary of the Interior

The head of the agency concerned or his designee shall execute such documents for the transfer of title or other interest in property, except any mineral rights therein, and take such other action as the Secretary of Defense deems necessary or proper to transfer such property under the provisions of this subchapter. A copy of any deed, lease, or other instrument executed by or on behalf of the head of the agency concerned purporting to transfer title or any other interest in public land shall be furnished to the Secretary of the Interior.

(5) Consent of Secretary concerned

No interest in public lands, withdrawn or otherwise appropriated, may be transferred