

eral Services (in consultation with the Administrator for Federal Procurement Policy) from a register of applicants maintained by the Administrator of General Services, in accordance with rules issued by the Administrator of General Services (in consultation with the Administrator for Federal Procurement Policy) for establishing and maintaining a register of eligible applicants and selecting Civilian Board members. The Administrator of General Services shall appoint a member without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Civilian Board member.

(B) The members of the Civilian Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, with an additional requirement that such members shall have had not fewer than five years of experience in public contract law.

(C) Notwithstanding subparagraph (B) and subject to paragraph (2), the following persons shall serve as Civilian Board members: any full-time member of any agency board of contract appeals other than the Armed Services Board of Contract Appeals, the Postal Service Board of Contract Appeals, and the board of contract appeals of the Tennessee Valley Authority serving as such on the day before the effective date of this section.

(2) Removal

Members of the Civilian Board shall be subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5.

(3) Compensation

Compensation for members of the Civilian Board shall be determined under section 5372a of title 5.

(c) Functions

(1) In general

The Civilian Board shall have jurisdiction as provided by section 607(d) of this title.

(2) Additional jurisdiction

The Civilian Board may, with the concurrence of the Federal agency or agencies affected—

(A) assume jurisdiction over any additional category of laws or disputes over which an agency board of contract appeals established pursuant to section 607 of this title exercised jurisdiction before the effective date of this section; and

(B) assume any other functions performed by such a board before such effective date on behalf of such agencies.

(Pub. L. 93-400, §42, as added Pub. L. 109-163, div. A, title VIII, §847(a), Jan. 6, 2006, 119 Stat. 3391.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsecs. (b)(1)(C) and (c)(2), see Effective Date note below.

Section 607 of this title, referred to in subsec. (c)(2)(A), was in the original “section 8 of the Contract Disputes Act”, and was translated as reading “section

8 of the Contract Disputes Act of 1978”, to reflect the probable intent of Congress.

CHANGE OF NAME

References to an agency board of contract appeals other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, or the Postal Service Board of Contract Appeals, deemed to refer to the Civilian Board of Contract Appeals, see section 847(e) of Pub. L. 109-163, set out as a note under section 607 of this title.

EFFECTIVE DATE

Section effective 1 year after Jan. 6, 2006, see section 847(g) of Pub. L. 109-163, set out as an Effective Date of 2006 Amendment note under section 5372a of Title 5, Government Organization and Employees.

TRANSFERS

For transfer of personnel, property, etc. of agency boards of contract appeals to the Civilian Board of Contract Appeals, with certain exceptions, see section 847(b) of Pub. L. 109-163, set out as a note under section 607 of this title.

CHAPTER 8—FEDERAL GRANTS AND COOPERATIVE AGREEMENTS

§§ 501 to 509. Repealed. Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1083

Section 501, Pub. L. 95-224, §2, Feb. 3, 1978, 92 Stat. 3, set out the Congressional findings and statement of purposes in enacting the Federal Grant and Cooperative Agreement Act of 1977 [this chapter]. Sections 1 and 10(b) of Pub. L. 95-224, setting out the short title provisions and savings provisions respectively of that Act, were set out as notes under this section, and were repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1083. Section 10(d) of Pub. L. 95-224, as amended by Pub. L. 97-162, Apr. 1, 1982, 96 Stat. 23, setting out the excepted transactions provisions of that Act was set out as a note under this section, and was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1083. See sections 6301 and 6307(2) of Title 31, Money and Finance.

Section 502, Pub. L. 95-224, §3, Feb. 3, 1978, 92 Stat. 4, defined “State government”, “local government”, “other recipient”, “executive agency”, and “grant or cooperative agreement”. See section 6302 of Title 31.

Section 503, Pub. L. 95-224, §4, Feb. 3, 1978, 92 Stat. 4, provided for use of procurement contracts by executive agencies. See section 6303 of Title 31.

Section 504, Pub. L. 95-224, §5, Feb. 3, 1978, 92 Stat. 4, provided for use of grant agreements by executive agencies. See section 6304 of Title 31.

Section 505, Pub. L. 95-224, §6, Feb. 3, 1978, 92 Stat. 5, provided for use of cooperative agreements by executive agencies. See section 6305 of Title 31.

Section 506, Pub. L. 95-224, §7, Feb. 3, 1978, 92 Stat. 5, pertained to required and discretionary authorities. See section 6306 of Title 31.

Section 507, Pub. L. 95-224, §8, Feb. 3, 1978, 92 Stat. 5, directed Director of Office of Management and Budget to undertake a study to develop a better understanding of alternate means of implementing Federal assistance programs.

Section 508, Pub. L. 95-224, §9, Feb. 3, 1978, 92 Stat. 6, authorized Director of Office of Management and Budget to issue supplemental interpretive guidelines to promote consistent and efficient use of contracts, grant agreements, and cooperative agreements. See section 6307(1) of Title 31.

Section 509, Pub. L. 95-224, §10(c), Feb. 3, 1978, 92 Stat. 6, related to use of multiple relationships for different components of jointly funded projects. See section 6308 of Title 31.

CHAPTER 9—CONTRACT DISPUTES

Sec. 601. Definitions.

Sec.	
602.	Applicability of law.
603.	Maritime contracts.
604.	Fraudulent claims.
605.	Decision by contracting officer.
606.	Contractor's right of appeal to board of contract appeals.
607.	Agency boards of contract appeals.
608.	Small claims.
609.	Judicial review of board decisions.
610.	Subpena, discovery, and deposition.
611.	Interest.
612.	Payment of claims.
613.	Separability.

§ 601. Definitions

As used in this chapter—

(1) the term “agency head” means the head and any assistant head of an executive agency, and may “upon the designation by” the head of an executive agency include the chief official of any principal division of the agency;

(2) the term “executive agency” means an executive department as defined in section 101 of title 5, an independent establishment as defined by section 104 of title 5 (except that it shall not include the Government Accountability Office), a military department as defined by section 102 of title 5, and a wholly owned Government corporation as defined by section 9101(3) of title 31;

(3) the term “contracting officer” means any person who, by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto. The term also includes the authorized representative of the contracting officer, acting within the limits of his authority;

(4) the term “contractor” means a party to a Government contract other than the Government;

(5) the term “Administrator” means the Administrator for Federal Procurement Policy appointed pursuant to the Office of Federal Procurement Policy Act [41 U.S.C. 401 et seq.];

(6) the terms “agency board” or “agency board of contract appeals” mean—

(A) the Armed Services Board of Contract Appeals established under section 607(a)(1) of this title;

(B) the Civilian Board of Contract Appeals established under section 42 of the Office of Federal Procurement Policy Act [41 U.S.C. 438];

(C) the board of contract appeals of the Tennessee Valley Authority; or

(D) the Postal Service Board of Contract Appeals established under section 607(c) of this title;

(7) the term “Armed Services Board” means the Armed Services Board of Contract Appeals established under section 607(a)(1) of this title;

(8) the term “Civilian Board” means the Civilian Board of Contract Appeals established under section 42 of the Office of Federal Procurement Policy Act [41 U.S.C. 438]; and

(9) the term “misrepresentation of fact” means a false statement of substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

(Pub. L. 95-563, §2, Nov. 1, 1978, 92 Stat. 2383; Pub. L. 104-106, div. D, title XLIII, §4322(b)(5), Feb. 10, 1996, 110 Stat. 677; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-163, div. A, title VIII, §847(d)(1), Jan. 6, 2006, 119 Stat. 3393.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-563, which enacted this chapter, amended section 5108 of Title 5, Government Organization and Employees, section 1346, 1491, 2401, 2414, 2510, and 2517 of Title 28, Judiciary and Judicial Procedure, and section 724a of former Title 31, Money and Finance, and enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Office of Federal Procurement Policy Act, referred to in par. (5), is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

CODIFICATION

In par. (2), “section 9101(3) of title 31” substituted for “section 846 of title 31, United States Code” 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.

AMENDMENTS

2006—Par. (2). Pub. L. 109-163, §847(d)(1)(A), struck out “, the United States Postal Service, and the Postal Rate Commission” before semicolon at end.

Par. (6). Pub. L. 109-163, §847(d)(1)(C), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “the term ‘agency board’ means an agency board of contract appeals established under section 607 of this title; and”.

Pars. (7) to (9). Pub. L. 109-163, §847(d)(1)(B), (D), added pars. (7) and (8) and redesignated former par. (7) as (9).

2004—Par. (2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1996—Pars. (3), (5) to (7). Pub. L. 104-106 substituted “the term” for “The term”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-163 effective 1 year after Jan. 6, 2006, see section 847(g) of Pub. L. 109-163, set out as a note under section 5372a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 251 of this title.

EFFECTIVE DATE

Section 16 of Pub. L. 95-563 provided that: “This Act [see Short Title note below] shall apply to contracts entered into one hundred twenty days after the date of enactment [Nov. 1, 1978]. Notwithstanding any provision in a contract made before the effective date of this Act, the contractor may elect to proceed under this Act with respect to any claim pending then before the contracting officer or initiated thereafter.”

SHORT TITLE

Section 1 of Pub. L. 95-563 provided: “That this Act [enacting this chapter, amending section 5108 of Title 5, Government Organization and Employees, sections 1346, 1491, 2401, 2414, 2510, and 2517 of Title 28, Judiciary and Judicial Procedure, and section 724a of former Title 31, Money and Finance, and enacting provisions set out above] may be cited as the ‘Contract Disputes Act of 1978’.”