

carrying out duties and functions of the Board of \$1,000,000 for each of fiscal years ending June 30, 1974, and June 30, 1975, \$1,500,000 for fiscal year ending June 30, 1976, and \$1,500,000 for each of fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, was struck out.

Subsec. (i). Pub. L. 95-602, § 118(e), added subsec. (i).

1976—Subsec. (h). Pub. L. 94-230, § 10, authorized appropriation of \$1,500,000 for fiscal year ending Sept. 30, 1977.

Pub. L. 94-230, § 11(b)(13), authorized appropriation of \$1,500,000 for fiscal year ending Sept. 30, 1978.

1974—Subsec. (a). Pub. L. 93-516, § 111(n), redesignated cls. (6), (7), and (8), as cls. (7), (8), and (9), added cl. (6), and following designated clauses, inserted provisions that Secretary of Health, Education, and Welfare shall be Chairman of Board, and that Board shall appoint, upon recommendation of Secretary, a Consumer Advisory Panel, a majority of members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to Board in carrying out its functions.

Pub. L. 93-651, § 111(n), amended subsec. (a) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (d). Pub. L. 93-516, § 111(o), substituted "this chapter, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carrying out its functions under subsections (b) and (c) of this section, and shall conduct" for "this section, the Board shall conduct", and inserted provisions that any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality, and that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts referred to in subsec. (b) of this section.

Pub. L. 93-651, 111(o), amended subsec. (d) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (e). Pub. L. 93-516, § 111(p), inserted provisions relating to appointment of an executive director and other professional and clerical personnel.

Pub. L. 93-651, § 111(p), amended subsec. (e) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (g). Pub. L. 93-516, § 111(q), substituted "not later than September 30, 1975" for "prior to January 1, 1975".

Pub. L. 93-651, § 111(q), amended subsec. (g) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (h). Pub. L. 93-516, § 110, authorized appropriation of \$1,500,000 for fiscal year ending June 30, 1976.

Pub. L. 93-651, § 110, amended subsec. (h) in exactly the same manner as it was amended by Pub. L. 93-516.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96-374, set out as a note under section 1001 of Title 20, Education.

#### EXTENSION OF VOCATIONAL REHABILITATION PROGRAMS THROUGH FISCAL YEAR ENDING SEPTEMBER 30, 1978; EFFECTIVE DATE OF 1976 AMENDMENT

For contingency provisions relating to the extensions of program authorizations and to the effective date of such extensions, see section 11(a), (b)(1), and (c) of Pub. L. 94-230, set out as a note under section 720 of this title.

#### TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Ap-

pendix to Title 5, Government Organization and Employees.

### § 793. Employment under Federal contracts

#### (a) Amount of contracts or subcontracts; provision for employment and advancement of qualified individuals with disabilities; regulations

Any contract in excess of \$10,000 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities. The provisions of this section shall apply to any subcontract in excess of \$10,000 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after September 26, 1973.

#### (b) Administrative enforcement; complaints; investigations; departmental action

If any individual with a disability believes any contractor has failed or refused to comply with the provisions of a contract with the United States, relating to employment of individuals with disabilities, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

#### (c) Waiver by President; national interest special circumstances for waiver of particular agreements; waiver by Secretary of Labor of affirmative action requirements

(1) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which the President shall prescribe, when the President determines that special circumstances in the national interest so require and states in writing the reasons for such determination.

(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) of this section with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this chapter.

(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

**(d) Standards used in determining violation of section**

The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,<sup>1</sup> of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

**(e) Avoidance of duplicative efforts and inconsistencies**

The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.

(Pub. L. 93–112, title V, § 503, Sept. 26, 1973, 87 Stat. 393; Pub. L. 95–602, title I, § 122(d)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title I, § 103(d)(2)(B), (C), title X, §§ 1001(f)(2), (3), 1002(e)(3), Oct. 21, 1986, 100 Stat. 1810, 1843, 1844; Pub. L. 100–630, title II, § 206(c), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, § 102(p)(31), title V, § 505, Oct. 29, 1992, 106 Stat. 4360, 4427.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsecs. (d) and (e), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, §§102(p)(31)(A), 505(a), substituted “\$10,000” for “\$2,500” in two places, struck out “, in employing persons to carry out such contract,” after “contain a provision requiring that”, and substituted “individuals with disabilities” for “individuals with handicaps as defined in section 706(8) of this title”.

Subsec. (b). Pub. L. 102–569, §102(p)(31)(B), substituted “individual with a disability” for “individual with handicaps” and “individuals with disabilities” for “individuals with handicaps”.

Subsec. (c). Pub. L. 102–569, §505(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d), (e). Pub. L. 102–569, §505(c), added subsecs. (d) and (e).

1988—Subsec. (a). Pub. L. 100–630, §206(c)(1), inserted a comma after “to carry out such contract”.

Subsec. (b). Pub. L. 100–630, §206(c)(2), substituted “refused” for “refuses”.

Subsec. (c). Pub. L. 100–630, §206(c)(3), substituted “which the President” for “which The President” and “when the President” for “when The President”.

1986—Subsec. (a). Pub. L. 99–506, §§103(d)(2)(C), 1002(e)(3), substituted “individuals with handicaps” for “handicapped individuals” and “section 706(8) of this title” for “section 706(7) of this title”.

Subsec. (b). Pub. L. 99–506, §§103(d)(2)(B), (C), 1001(f)(2), substituted “individual with handicaps” for “handicapped individual”, “individuals with handicaps” for “handicapped individuals”, and “a contract” for “his contract”.

Subsec. (c). Pub. L. 99–506, §1001(f)(3), substituted “The President” for “he” in two places and substituted “the reasons” for “his reasons”.

1978—Subsec. (a). Pub. L. 95–602 substituted “section 706(7) of this title” for “section 706(6) of this title”.

**§ 794. Nondiscrimination under Federal grants and programs**

**(a) Promulgation of rules and regulations**

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

**(b) “Program or activity” defined**

For the purposes of this section, the term “program or activity” means all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

<sup>1</sup> See References in Text note below.