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104th Congress, 2nd Session – – – – – – – – – – House Report 104–745

LAWS RELATED TO FEDERAL FINANCIAL MANAGEMENT

As Amended Through December 31, 1995

NINTH REPORT

BY THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

AUGUST 2, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, August 2, 1996.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Reform and Oversight, I submit herewith the committee's ninth report to the 104th Congress.

WILLIAM F. CLINGER, Jr.,
Chairman.

PREFACE

The Committee on Government Reform and Oversight has long believed that effective financial management is critically important to making the best decisions on the use of public resources in the support of the security and well-being of the American people.

To assist it in fulfilling oversight responsibilities, the committee has prepared this compilation of laws on financial management, with references to related requirements and guidelines issued by Federal agencies. This compilation is being released as an investigative report to serve as a reference guide in assisting the committee members and staff in their work. However, it should also prove useful to our congressional colleagues and staff, Government entities, and others interested in good stewardship of Federal resources.

The committee appreciates the assistance of Jeffrey C. Steinhoff and Bruce K. Michelson, of the General Accounting Office, and Kevin Sabo, the committee's General Counsel, for their efforts in preparing this investigative report.

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ABBREVIATIONS AND SYMBOLS

CASB—Cost Accounting Standards Board
CBO—Congressional Budget Office
C.F.R.—Code of Federal Regulations
Code—United States Code
FASAB—Federal Accounting Standards Advisory Board
GAO—General Accounting Office
JFMIP—Joint Financial Management Improvement Program
OMB—Office of Management and Budget
PL—Public Law
Pub. L.—Public Law
sec.—section of the United States Code
stat.—statute
TFM—Treasury Financial Manual
U.S.C.—United States Code
U.S.C.A.—United States Code Annotated
§—section of the United States Code
§§—more than one section of the United States Code

INTRODUCTION

INTRODUCTION

This report contains the laws related to financial management in the federal government as of December 31, 1995, and also includes two financial management related laws passed during 1996, as explained below. The Print is intended as a guide for easy access to the codified laws and references to the related requirements and guidelines.

LAWS RELATED TO FINANCIAL MANAGEMENT

The selected provisions of the Code,[1] as of December 31, 1995, contained in this report are mostly from Title 31, "Money and Finance." Title 31 is the primary title containing financial management matters. Also included, however, are selected sections containing financial management mandates from eight other titles. (See appendix I for a further explanation of the provisions of the Code included in this report.) Most sections of the Code contain supplemental notes providing further requirements or explanations. In several sections of the Code contained in this Print, notes are provided where necessary to assist in interpreting the meaning of the section. They are in italic print to differentiate them from the text of the Code.

In addition, the full text of the recently enacted Debt Collection Improvement Act of 1996, and the Single Audit Act Amendments of 1996 are not included in the Code as of December 31, 1995, but are in this Print. Further, 11 major laws on financial management, though appearing in various parts of the Code in this Print, are also included separately as originally enacted.

REQUIREMENTS AND GUIDELINES ISSUED BY AGENCIES OR ENTITIES

The laws contained in this report are supplemented by references to selected requirements and guidelines issued by federal agencies. Where applicable, at the end of each chapter of the Code, the related selected references are cited. The citations are in italic print to differentiate them from the text of the Code.

The references cited are from seven sources. The first source is the requirements contained in the "Code of Federal Regulations" (C.F.R.). The C.F.R. contains the rules issued by agencies and is further explained in appendix II. The next five sources are the financial management issuances other than those contained in the C.F.R. of the "oversight" agencies or entities. They are the:

General Accounting Office (GAO) (see appendix III);

Office of Management and Budget (OMB) (see appendix IV);

Department of the Treasury (see appendix V);

Joint Financial Management Improvement Program (JFMIP) (see appendix VI); and

[1] The information in this report comes from the United States Code Annotated (U.S.C.A.).

Federal Accounting Standards Advisory Board (FASAB) (see appendix VII).

Each of these five appendices contains a short description of the role of the agency or entity and lists the applicable selected requirements and guidelines and, the related parts of the Code. Appendices III, IV, and V also contain a cross-index listing the section of the Code in sequential order followed by the applicable requirement or guideline. In addition, each of these five appendices include the address and telephone numbers of the agency or entity for use in obtaining information or acquiring copies of the applicable requirements and guidelines.

The seventh source of financial management issuances is the Cost Accounting Standards Board (CASB). Appendix VIII provides a brief description of the CASB, its applicability to federal financial management, the related section of the Code pertaining to it, and portions of the C.F.R. containing the standards it issued. The address and telephone number of the CASB is provided if additional information is needed.

OTHER APPENDICES

Appendices IX and X provide cross-indexes of important financial management laws by popular name and statute citation or public law (PL) number.

Appendix IX lists the major laws by popular name with a corresponding reference to the U.S.C. citation and statute citation or PL number.[2] Thus, by knowing only the popular name, such as the Chief Financial Officers Act of 1990, the user can identify the U.S.C. citations and the related statute or PL number. For example, the Chief Financial Officers Act of 1990 will cross-index to several U.S.C. citations contained in this Print and PL 101–576.

Appendix X lists the statute citation (if the law was enacted before 1957) or PL number in sequential order cross-indexed to the popular name of the law. For example, PL 95–510 will contain a cross-index to: "Legislative Reorganization Act of 1970."

TABLE OF CONTENTS

In addition to the summary contents and the overall contents preceding this introduction, the selected provisions of each the nine Titles of the Code contained in this report will be preceded by a table listing the sections included from that title.

[2] The Code citation contains all amendments to the law as of December 31, 1995, related to the sections of Code included in this Print.

SELECTED PROVISIONS OF TITLE 31, UNITED STATES CODE— MONEY AND FINANCE

Table of Sections of Selected Provisions of Title 31 [3]

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MONEY AND FINANCE

* * * * * * *

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308. United States Customs Service.
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322. Working capital fund.
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326. Availability of appropriations for certain expenses.
327. Advancements and reimbursements for services.
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329. Limitations on outside activities.
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[3] This table of sections is not part of Title 31 but is included for the convenience of the reader.

505. Office of Information and Regulatory Affairs.
506. Office of Federal Procurement Policy.
521. Employees.
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713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms.
714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal Reserve Banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency.
715. Audit of accounts and operations of the District of Columbia government.
716. Availability of information and inspection of records.
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1112. Fiscal, budget, and program information.
1113. Congressional information.
1114. [Repealed.].
1115. Performance plans.
1116. Program performance reports.
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1118. Pilot projects for performance goals.
1119. Pilot projects for performance budgeting.

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* * * * * * *

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[4] Sections from Subtitle IV of Title 31 were not selected for inclusion in this report because the subject matter was not directly related to financial management.

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TITLE 31—MONEY AND FINANCE

Subtitle I—General

* * * * * * *

CHAPTER 1—DEFINITIONS

SEC. 101. AGENCY.

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

SEC. 102. EXECUTIVE AGENCY.

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

SEC. 103. UNITED STATES.

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

TITLE 31—MONEY AND FINANCE

Subtitle I—General

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CHAPTER 3—DEPARTMENT OF THE TREASURY

Subchapter I—Organization

SEC. 301. DEPARTMENT OF THE TREASURY.

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

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

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

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

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

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

(e) The Department has 7 Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall carry out duties and powers prescribed by the Secretary. The Assistant Secretaries appointed under this subsection are in addition to the Assistant Secretaries appointed under subsection (d) of this section.

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

General Counsels shall carry out duties and powers prescribed by the Secretary.

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

(g) The Department shall have a seal.

SEC. 302. TREASURY OF THE UNITED STATES.

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

SEC. 303. BUREAU OF ENGRAVING AND PRINTING.

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

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

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

(2) reports directly to the Secretary.

SEC. 304. UNITED STATES MINT.

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

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

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

SEC. 305. FEDERAL FINANCING BANK.

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

SEC. 306. FISCAL SERVICE.

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

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

(c) The Fiscal Service has a—

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

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

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

SEC. 307. OFFICE OF THE COMPTROLLER OF THE CURRENCY.

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

SEC. 308. UNITED STATES CUSTOMS SERVICE.

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

SEC. 309. OFFICE OF THRIFT SUPERVISION.

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

SEC. 310. CONTINUING IN OFFICE.

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

SEC. 321. GENERAL AUTHORITY OF THE SECRETARY.

(a) The Secretary of the Treasury shall—

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

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

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

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

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

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

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

(6) collect receipts;

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

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

(A) each kind of tax;

(B) the amount of each tax; and

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

(b) The Secretary may—

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

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

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

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

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

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

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

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

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

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

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

(2) of the Comptroller of the Currency; and

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

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

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

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

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

(e) CERTAIN REORGANIZATION PROHIBITED.—The Secretary of the Treasury may not merge or consolidate the Office of Thrift Supervision, or any of the functions or responsibilities of the Office or the Director of such office, with the Office of the Comptroller of the Currency or the Comptroller of the Currency.

SEC. 322. WORKING CAPITAL FUND.

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

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

(c) The fund consists of—

(1) amounts appropriated to the fund;

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

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

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

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

SEC. 323. INVESTMENT OF OPERATING CASH.

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

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

(2) the United States Government.

(b) Subsection (a) of this section does not—

(1) require the Secretary to invest a cash balance held in a particular account; or

(2) permit the Secretary to require the sale of obligations by a particular person, dealer, or financial institution.

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

SEC. 324. DISPOSING AND EXTENDING THE MATURITY OF OBLIGATIONS.

(a) The Secretary of the Treasury may—

(1) dispose of obligations—

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

(B) delivered by an executive agency; and

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

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

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

SEC. 325. INTERNATIONAL AFFAIRS AUTHORIZATION.

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

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

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

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

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

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

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

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

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

(2) for increases in—

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

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

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

SEC. 326. AVAILABILITY OF APPROPRIATIONS FOR CERTAIN EXPENSES.

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

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

SEC. 327. ADVANCEMENTS AND REIMBURSEMENTS FOR SERVICES.

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

(1) disbursing and receiving amounts,

(2) servicing bonds,

(3) making accounts, and

(4) maintaining bank accounts.

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

SEC. 328. ACCOUNTS AND PAYMENTS OF FORMER DISBURSING OFFICIALS.

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

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

SEC. 329. LIMITATIONS ON OUTSIDE ACTIVITIES.

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

(A) be involved in trade or commerce;

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

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

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

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

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

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

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

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

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

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

SEC. 330. PRACTICE BEFORE THE DEPARTMENT.

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

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

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

(A) good character;

(B) good reputation;

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

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

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

(1) is incompetent;

(2) is disreputable;

(3) violates regulations prescribed under this section; or

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

(c) After notice and opportunity for a hearing to any appraiser with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1954, the Secretary may—

(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

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

SEC. 331. REPORTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The report shall present the information required under paragraph (1) of this subsection in a concise way, with explanatory material (including an analysis of the significance of liabilities based on past experience and probable risk) the Secretary considers desirable.

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

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

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

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

* * * * * * *

The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
321	31 C.F.R. 1, 2, 10, 19, 21, 25, 26, 205, 206, 210, 337, 601
330	TFM, Volume 1, Part 6, Chapter 8000, see appendix V 31 CFR 10
331	TFM, Volume 1, Part 6, Chapter 4000, see appendix V

TITLE 31—MONEY AND FINANCE

Subtitle I—General

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CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I—ORGANIZATION

SEC. 501. OFFICE OF MANAGEMENT AND BUDGET.

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

SHORT TITLE OF 1990 AMENDMENT

Pub.L. 101–576, Title I, Sec. 101, Nov. 15, 1990, 104 Stat. 2838, provided that: "This Act [enacting sections 503, 504, 901–903, 3515 and 9106 of this title, amending sections 502, 1105, 3512, 3521, 5313, 5314, 5315 and 9105 of this title and section 3533 of Title 42, Public Health and Welfare, enacting provisions set out as notes under this section and sections 901, 3511, 3515 and 3521 of this title, and amending provisions set out as a note under section 201 of Title 38, Veterans' Benefits] may be cited as the 'Chief Financial Officers Act of 1990'."

FRANCHISE FUND PILOT PROGRAMS

Pub.L. 103–356, Title IV, Sec. 403, Oct. 13, 1994, 108 Stat. 3413, provided that:

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

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

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

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

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

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

"(1) the structure of the fund;

"(2) the composition of the funding mechanism;

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

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

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

"(f) TERMINATION.—The provisions of this section shall expire on October 1, 1999."

[Any reference in any provision of law enacted before Jan. 4, 1995, to the Committee on Government Operations of the House of Representatives treated as referring to the Committee on Government Reform and Oversight of the House of Representatives, except that any reference in any provision of law enacted before Jan. 4, 1995, to the Committee on Government Operations of the House of Representatives treated as referring to the Committee on the Budget of the House of Representatives in the case of a provision of law relating to the establishment, extension, and enforcement of special controls over the Federal budget, see section 1(a)(6) and (c)(2) of Pub.L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.]

SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS

Pub.L. 103–356, Title IV, Sec. 404, Oct. 13, 1994, 108 Stat. 3414, provided that:

"(a) IN GENERAL.—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the fre-

quency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

"(1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code [sections 501 et seq., 901 et seq., 1101 et seq., 3301 et seq., 3501 et seq., 3701 et seq., 3901 et seq., 7501 et seq., and 9101 et seq. of this title, respectively

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

"(b) Application.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

"(c) Adjustments in reporting.—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

"(1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations; and

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

[Any reference in any provision of law enacted before Jan. 4, 1995, to the Committee on Government Operations of the House of Representatives treated as referring to the Committee on Government Reform and Oversight of the House of Representatives, except that any reference in any provision of law enacted before Jan. 4, 1995, to the Committee on Government Operations of the House of Representatives treated as referring to the Committee on the Budget of the House of Representatives in the case of a provision of law relating to the establishment, extension, and enforcement of special controls over the Federal budget, see section 1(a)(6) and (c)(2) of Pub.L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.]

FINDINGS AND PURPOSES

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

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

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

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

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

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

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

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

"(b) PURPOSES.—The purposes of this Act [Pub.L. 101–576, Nov. 15, 1990, 104 Stat. 2838, see Short Title of 1990 Amendment note under this section] are the following:

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

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

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

DUTIES AND FUNCTIONS OF THE DEPARTMENT OF THE TREASURY

Pub.L. 101–576, Title II, Sec. 204, Nov. 15, 1990, 104 Stat. 2842, provided that: "Nothing in this Act [Pub.L. 101–576, Nov. 15, 1990, 104 Stat. 2838, see Short Title of 1990 Amendment note under this section] shall be construed to interfere with the exercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act [probably means the date of enactment of Pub.L. 101–576, which was approved Nov. 15, 1990]."

NOTE

Executive Order 12816

Oct. 14, 1992, 57 F.R. 47562

Management Improvement in the Federal Government

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to coordinate and implement policies with respect to management improvement in the Federal Government, it is hereby ordered as follows:

SECTION 1. Establishment and Membership of the President's Council on Management Improvement.

(a) There is established as an interagency committee the President's Council on Management Improvement ("Council").

(b) The Council shall be composed of the Deputy Director for Management of the Office of Management and Budget, who shall serve as Chairman, and one senior official, who is a full-time officer or employee of the Federal Government and who is responsible for management or administration, from each of the following agencies as selected by the heads of those agencies:

(1) Department of State;
(2) Department of the Treasury;
(3) Department of Defense;
(4) Department of Justice;
(5) Department of the Interior;
(6) Department of Agriculture;
(7) Department of Commerce;
(8) Department of Labor;
(9) Department of Health and Human Services;
(10) Department of Housing and Urban Development;
(11) Department of Transportation;
(12) Department of Energy;
(13) Department of Education;
(14) Department of Veterans Affairs;
(15) Agency for International Development;
(16) Environmental Protection Agency;
(17) Equal Employment Opportunity Commission;
(18) Federal Communications Commission;
(19) Federal Deposit Insurance Corporation;
(20) Federal Emergency Management Agency;
(21) Federal Energy Regulatory Commission;
(22) Federal Reserve Board;
(23) General Services Administration;
(24) Interstate Commerce Commission;
(25) National Aeronautics and Space Administration;
(26) National Archives and Records Administration;
(27) Nuclear Regulatory Commission;
(28) Office of Personnel Management;
(29) Resolution Trust Corporation;
(30) Securities and Exchange Commission;
(31) Small Business Administration;
(32) Tennessee Valley Authority; and

(33) United States Information Agency.

(c) The Council membership also shall include the following officials:

(1) Deputy Director, Office of Personnel Management;

(2) Deputy Administrator, General Services Administration;

(3) Assistant to the President for Policy Development or a full-time officer or employee of the Federal Government designated by that official;

(4) Assistant to the President for Presidential Personnel or a full-time officer or employee of the Federal Government designated by that official;

(5) Assistant Director for General Management, Office of Management and Budget; and

(6) At-large members appointed by the Chairman pursuant to section 3(e) of this order.

(d) The Council shall have a Vice Chairman selected by the Chairman from among the Council membership.

SEC. 2. FUNCTIONS OF THE COUNCIL.—

(a) The Council shall serve as an interagency forum to discuss problems and recommend improvements in Government management and operations and to provide advice to the Chairman on matters pertaining to the management of the Federal Government. The Council shall:

(1) assist in the formulation of short- and long-range plans to promote improvements in the management and administrative systems and operations of the Federal Government;

(2) identify specific department and agency management solutions that may have Governmentwide [sic] application and assist in the dissemination of this information and the implementation of these solutions;

(3) serve as a resource to assist in an advisory capacity in the development, review, revision, and implementation of Governmentwide [sic] policies in support of the central management agencies of the Federal Government, including the Office of Management and Budget, the Office of Personnel Management, and the General Services Administration; and

(4) serve as a forum to recommend solutions to interagency management problems.

(b) In conducting these functions, the Council shall not interfere with existing lines of authority and responsibility in the departments and agencies.

SEC. 3. RESPONSIBILITIES OF THE CHAIRMAN.—The Chairman shall—

(a) establish, in consultation with the Council membership as he deems appropriate, procedures and agenda topics for the Council;

(b) report, on behalf of the Council and as appropriate, to the President, the Director of the Office of Management and Budget, the agency heads, and the Cabinet on the goals and accomplishments of the Council;

(c) establish such committees or working groups of the Council, including an executive committee, as the Chairman may find necessary or appropriate for the efficient conduct of Council functions;

(d) appoint a Vice Chairman from among the Council's membership to assist the Chairman in representing the Council and to perform duties as determined by the Chairman;

(e) appoint other full-time officers or employees of the Federal Government to the Council as at-large members for specific terms to provide special expertise to the Council and to perform duties as determined by the Chairman; and

(f) be supported by the Assistant Director for General Management of the Office of Management and Budget, who shall advise and assist the Chairman in the execution of the responsibilities set forth above and act for the Chairman in his or her absence.

SEC. 4. ADMINISTRATIVE PROVISIONS.—

(a) The Director of the Office of Management and Budget shall provide the Council with administrative support as may be necessary for the performance of its functions.

(b) To the extent permitted by law, the head of each agency represented on the Council shall provide its representative with such administrative support as necessary to enable the agency representative to carry out his or her responsibilities and to support the Governmentwide [sic] activities of the Council.

SEC. 5. REVOCATION.—Executive Order No. 12479 [formerly set out as a note under this section] is revoked.

GEORGE BUSH.

Memoranda of President

OCT. 1, 1993, 58 F.R. 52393

Implementing Management Reform in the Executive Branch

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

The National Performance Review has examined how well the government serves its citizens, where it can improve, and where it is necessary to make fundamental changes to make government work better. It has presented its findings and recommendations—including the adoption of new management principles and structural reforms—to improve government throughout the Executive branch.

In order to establish and implement more effective and efficient leadership and management principles throughout the Executive branch as identified in the National Performance Review, I hereby direct the following:

1. Establish Chief Operating Officers

Each agency head shall designate a Chief Operating Officer, who shall be the Deputy or another official with agency-wide authority. The Chief Operating Officer shall report directly to the agency head and shall be responsible for:

(a) implementing the President's and agency head's goals and the agency's mission;

(b) providing overall organization management to improve agency performance;

(c) assisting the agency head in promoting ongoing quality improvement, developing strategic plans, and measuring results;

(d) directing ongoing reengineering of the agency's administrative processes;

(e) overseeing agency-specific application of performance measures, procurement reforms, personnel reductions, financial management improvements, telecommunications and information technology policies, and other government-wide systems reforms adopted as a result of the recommendations of the National Performance Review; and

(f) reforming the agency's management practices by incorporating the principles of the National Performance Review into day-to-day management.

2. Implement Additional Agency Reforms

Each agency head shall identify and implement additional changes within the agency that will promote the principles and standards of the National Performance Review and the strategic and quality management approaches described by the Federal Quality Institute's "Presidential Award for Quality" or its successor award(s).

3. Establishment of President's Management Council

In order to advise and assist the President and the Vice President in ensuring that the reforms adopted as a result of the National Performance Review are implemented throughout the Executive branch, I hereby establish the President's Management Council ("The Council"). The Council shall comprise the:

(a) The Deputy Director for Management, Office of Management and Budget;

(b) The Chief Operating Officers from the following agencies:

(1) Department of State;
(2) Department of the Treasury;
(3) Department of Defense;
(4) Department of Justice;
(5) Department of the Interior;
(6) Department of Agriculture;
(7) Department of Commerce;
(8) Department of Labor;
(9) Department of Health and Human Services;
(10) Department of Housing and Urban Development;
(11) Department of Transportation;
(12) Department of Energy;
(13) Department of Education;
(14) Department of Veterans Affairs;
(15) Environmental Protection Agency;

(c) The following central management agency representatives:

(1) Director of the Office of Personnel Management;
(2) Administrator of General Services;

(d) Chief Operating Officers of three other Executive branch agencies designated by the Chairperson, in his or her discretion;

(e) Secretary of the Cabinet; and

(f) Such other officials of Executive departments and agencies as I may, from time to time, designate.

The Deputy Director for Management of the Office of Management and Budget shall serve as Chairperson of the Council. The Chair-

person of the Council shall appoint a Vice-Chairperson from the Council's membership to assist the Chairperson in conducting the affairs of the Council.

I also establish an Executive Committee of the Council. Members of the Executive Committee shall be: the Chairperson; the Vice Chairperson; the two central management agency representatives; two Chief Operating Officers serving on the Council, whom I shall designate, and any additional Council members whom I may, from time to time, designate.

The Chairperson shall convene meetings of the Council, which shall be held at least once a month.

The functions of the Council shall include, among others:

(a) improving overall Executive branch management, including reform of government-wide management systems, such as management controls, financial management, personnel, budgeting, and procurement;

(b) coordinating management-related efforts to improve government throughout the Executive branch and, as necessary, resolving specific interagency management issues;

(c) ensuring the adoption of new management practices in agencies throughout the Executive branch; and

(d) identifying examples of, and providing mechanisms for, interagency exchange of information about best management practices.

The Council shall be provided with appropriate staff support and other resources as may be necessary to carry out its duties. In addition, the Federal Quality Institute shall serve as a resource to the Council.

The Council shall seek advice and information as appropriate from nonmember Federal agencies, particularly smaller agencies. The Council shall also consider the management reform experience of corporations, nonprofit organizations, State and local governments, government employees, public sector unions, and customers of government services.

Agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.

4. Independent Agencies

Independent agencies are requested to adhere to this directive.

5. Judicial Review

This directive is for the internal management of the Executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

6. Publication

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

SEC. 502. OFFICERS

(a) The head of the Office of Management and Budget is the Director of the Office of Management and Budget. The Director is appointed by the President, by and with the advice and consent of the Senate. Under the direction of the President, the Director shall administer the Office.

(b) The Office has a Deputy Director of the Office of Management and Budget, appointed by the President, by and with the advice and consent of the Senate. The Deputy Director—

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

(2) acts as the Director when the Director is absent or unable to serve or when the office of Director is vacant.

(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director for Management shall be the chief official responsible for financial management in the United States Government.

(d) The Office has 3 Assistant Directors who shall carry out the duties and powers prescribed by the Director.

(e) The Office may have not more than 6 additional officers, each of whom is appointed in the competitive service by the Director, with the approval of the President. Each additional officer shall carry out the duties and powers prescribed by the Director. The Director shall specify the title of each additional officer.

(f) When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant, the President may designate an officer of the Office to act as Director.

SEC. 503. FUNCTIONS OF DEPUTY DIRECTOR FOR MANAGEMENT.

(a) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions:

(1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.

(2) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.

(3) Review agency budget requests for financial management systems and operations, and advise the Director on the resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.

(4) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they are in accordance with financial management plans of the Office of Management and Budget.

(5) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

(6) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

(7) Develop and maintain qualification standards for agency Chief Financial Officers and for agency Deputy Chief Financial Officers appointed under sections 901 and 903, respectively.

(8) Provide advice to agency heads with respect to the selection of agency Chief Financial Officers and Deputy Chief Financial Officers.

(9) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

(10) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

(11) Settle differences that arise among agencies regarding the implementation of financial management policies.

(12) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

(13) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

(14) Issue such other policies and directives as may be necessary to carry out this section, and perform any other function prescribed by the Director.

(b) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

(1) Coordinate and supervise the general management functions of the Office of Management and Budget.

(2) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to—

(A) managerial systems, including the systematic measurement of performance;

(B) procurement policy;

(C) grant, cooperative agreement, and assistance management;

(D) information and statistical policy;

(E) property management;

(F) human resources management;

(G) regulatory affairs; and

(H) other management functions, including organizational studies, long-range planning, program evaluation, productivity improvement, and experimentation and demonstration programs.

(3) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

(4) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government op-

erations and to remove impediments to effective administration.

(5) Provide leadership in management innovation, through—

(A) experimentation, testing, and demonstration programs; and

(B) the adoption of modern management concepts and technologies.

(6) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

(7) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

(8) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

(9) Perform any other functions prescribed by the Director.

SEC. 504. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

(a) There is established in the Office of Management and Budget an office to be known as the "Office of Federal Financial Management". The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(a) of this title.

(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess—

(1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and

(2) extensive practical experience in financial management in large governmental or business entities.

(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(a).

SEC. 505. OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

The Office of Information and Regulatory Affairs, established under section 3503 of title 44, is an office in the Office of Management and Budget.

SEC. 506. OFFICE OF FEDERAL PROCUREMENT POLICY

The Office of Federal Procurement Policy, established under section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404(a)), is an office in the Office of Management and Budget.

Subchapter I—Organization

SEC. 521. EMPLOYEES.

The Director of the Office of Management and Budget shall appoint and fix the pay of employees of the Office under regulations prescribed by the President.

SEC. 522. NECESSARY EXPENDITURES.

The Director of the Office of Management and Budget may make necessary expenditures for the Office under regulations prescribed by the President.

* * * * * * *

The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
503	22 C.F.R. 518 OMB: Circulars A–21, A–73, A–87, A–102, A–110

TITLE 31—MONEY AND FINANCE

Subtitle I—General

* * * * * * *

CHAPTER 7—GENERAL ACCOUNTING OFFICE

SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

SEC. 701. DEFINITIONS.

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

SEC. 702. GENERAL ACCOUNTING OFFICE.

(a) The General Accounting Office is an instrumentality of the United States Government independent of the executive departments.

(b) The head of the Office is the Comptroller General of the United States. The Office has a Deputy Comptroller General of the United States.

(c) The Comptroller General may adopt a seal for the Office.

[(d) Redesignated (c)]

SEC. 703. COMPTROLLER GENERAL AND DEPUTY COMPTROLLER GENERAL.

(a)(1) The Comptroller General and Deputy Comptroller General are appointed by the President, by and with the advice and consent of the Senate.

(2) When a vacancy occurs in the office of Comptroller General or Deputy Comptroller General, a commission is established to recommend individuals to the President for appointment to the vacant office. The commission shall be composed of—

(A) the Speaker of the House of Representatives;

(B) the President pro tempore of the Senate;

(C) the majority and minority leaders of the House of Representatives and the Senate;

(D) the chairmen and ranking minority members of the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House; and

(E) when the office of Deputy Comptroller General is vacant, the Comptroller General.

(3) A commission established because of a vacancy in the office of the Comptroller General shall recommend at least 3 individuals. The President may ask the commission to recommend additional individuals.

(b) Except as provided in subsection (e) of this section, the term of the Comptroller General is 15 years. The Comptroller General may not be reappointed. The term of the Deputy Comptroller General expires on the date an individual is appointed Comptroller General. The Deputy Comptroller General may continue to serve until a successor is appointed.

(c) The Deputy Comptroller General—

(1) carries out duties and powers prescribed by the Comptroller General; and

(2) acts for the Comptroller General when the Comptroller General is absent or unable to serve or when the office of Comptroller General is vacant.

(d) The Comptroller General shall designate an officer or employee of the General Accounting Office to act as Comptroller General when the Comptroller General and Deputy Comptroller General are absent or unable to serve or when the offices of Comptroller General and Deputy Comptroller General are vacant.

(e)(1) A Comptroller General or Deputy Comptroller General may retire after becoming 70 years of age and completing 10 years of service as Comptroller General or Deputy Comptroller General (as the case may be). Either may be removed at any time by—

(A) impeachment; or

(B) joint resolution of Congress, after notice and an opportunity for a hearing, only for—

(i) permanent disability;

(ii) inefficiency;

(iii) neglect of duty;

(iv) malfeasance; or

(v) a felony or conduct involving moral turpitude.

(2) A Comptroller General or Deputy Comptroller General removed from office under paragraph (1) of this subsection may not be reappointed to the office.

(f) The annual rate of basic pay of the—

(1) Comptroller General is equal to the rate for level II of the Executive Schedule; and

(2) Deputy Comptroller General is equal to the rate for level III of the Executive Schedule.

SUBCHAPTER II—GENERAL DUTIES AND POWERS

SEC. 711. GENERAL AUTHORITY.

The Comptroller General may—

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

(2) delegate the duties and powers of the Comptroller General to officers and employees of the General Accounting Office as the Comptroller General decides is necessary to carry out those duties and powers;

(3) regulate the practice of representatives of persons before the Office; and

(4) administer oaths to witnesses when auditing and settling accounts.

SEC. 712. INVESTIGATING THE USE OF PUBLIC MONEY.

The Comptroller General shall—

(1) investigate all matters related to the receipt, disbursement, and use of public money;

(2) estimate the cost to the United States Government of complying with each restriction on expenditures of a specific appropriation in a general appropriation law and report each estimate to Congress with recommendations the Comptroller General considers desirable;

(3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;

(4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and

(5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures the help and information the committee requests.

SEC. 713. AUDIT OF INTERNAL REVENUE SERVICE AND BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS.

(a) Under regulations of the Comptroller General, the Comptroller General shall audit the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms, of the Department of the Treasury. An audit under this section does not affect a final decision of the Secretary of the Treasury under section 6406 of the Internal Revenue Code of 1954 (26 U.S.C. 6406).

(b)(1) To carry out this section and to the extent provided by and only subject to section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103)—

(A) returns and return information (as defined in section 6103(b) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(b)) shall be made available to the Comptroller General; and

(B) records and property of, or used by, the Service or the Bureau, shall be made available to the Comptroller General.

(2) At least once every 6 months, the Comptroller General shall designate each officer and employee of the General Accounting Office by name and title to whom returns, return information, or records or property of the Service or the Bureau that can identify a particular taxpayer may be made available. Each designation or a certified copy of the designation shall be sent to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, the Joint Committee on Taxation, the Commissioner of Internal Revenue, and the Director of the Bureau.

(3) Except as expressly provided by law, an officer or employee of the Office may make known information derived from a record

or property of, or in use by, the Service or the Bureau that can identify a particular taxpayer only to another officer or employee of the Office whose duties or powers require that the record or property be made known.

SEC. 714. AUDIT OF FINANCIAL INSTITUTIONS EXAMINATION COUNCIL, FEDERAL RESERVE BOARD, FEDERAL RESERVE BANKS, FEDERAL DEPOSIT INSURANCE CORPORATION, AND OFFICE OF COMPTROLLER OF THE CURRENCY.

(a) In this section, "agency" means the Financial Institutions Examination Council, the Federal Reserve Board, Federal reserve banks, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate agency has consented in writing. Audits of the Federal Reserve Board and Federal reserve banks may not include—

(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(3) transactions made under the direction of the Federal Open Market Committee; or

(4) a part of a discussion or communication among or between members of the Board of Governors and officers and employees of the Federal Reserve System related to clauses (1)–(3) of this subsection.

(c)(1) Except as provided in this subsection, an officer or employee of the General Accounting Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company. The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the Office may discuss a customer, bank, or bank holding company with an official of an agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) This subsection does not authorize an officer or employee of an agency to withhold information from a committee of Congress authorized to have the information.

(d)(1) To carry out this section, all records and property of or used by an agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller Gen-

eral. The Comptroller General shall give an agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit. An agency shall give the Comptroller General suitable and lockable offices and furniture, telephones, and access to copying facilities.

(2) Except for the temporary removal of workpapers of the Comptroller General that do not identify a customer of an open or closed bank or bank holding company, an open bank, or an open bank holding company, all workpapers of the Comptroller General and records and property of or used by an agency that the Comptroller General possesses during an audit, shall remain in the agency. The Comptroller General shall prevent unauthorized access to records or property.

SEC. 715. AUDIT OF ACCOUNTS AND OPERATIONS OF THE DISTRICT OF COLUMBIA GOVERNMENT.

(a) In addition to the audit carried out under section 455 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93–198, 87 Stat. 803; D.C.Code, Sec. 47–117), the Comptroller General each year shall audit the accounts and operations of the District of Columbia government. An audit shall be carried out according to principles, under regulations, and in a way the Comptroller General prescribes. When prescribing the procedures to follow and the extent of the inspection of records, the Comptroller General shall consider generally accepted principles of auditing, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices.

(b) The Comptroller General shall submit each audit report to Congress and the Mayor and Council of the District of Columbia. The report shall include the scope of an audit, information the Comptroller General considers necessary to keep Congress, the Mayor, and the Council informed of operations audited, and recommendations the Comptroller General considers advisable.

(c)(1) By the 90th day after receiving an audit report from the Comptroller General, the Mayor shall state in writing to the Council measures the District of Columbia government is taking to comply with the recommendations of the Comptroller General. A copy of the statement shall be sent to Congress.

(2) After the Council receives the statement of the Mayor, the Council may make available for public inspection the report of the Comptroller General and other material the Council considers pertinent.

(d) To carry out this section, records and property of or used by the District of Columbia government necessary to make an audit easier shall be made available to the Comptroller General. The Mayor shall provide facilities to carry out an audit.

(e) Not later than March 1 of each year, the Comptroller General shall submit to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate a review of the report of the breakdown of the independently audited revenues of the District of Columbia for the preceding fiscal year by revenues derived from

the Federal Government and revenues derived from sources other than the Federal Government that is included in the independent annual audit of the funds of the District of Columbia conducted for such fiscal year.

SEC. 716. AVAILABILITY OF INFORMATION AND INSPECTION OF RECORDS.

(a) Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. This subsection does not apply to expenditures made under section 3524 or 3526(e) of this title.

(b)(1) When an agency record is not made available to the Comptroller General within a reasonable time, the Comptroller General may make a written request to the head of the agency. The request shall state the authority for inspecting the records and the reason for the inspection. The head of the agency has 20 days after receiving the request to respond. The response shall describe the record withheld and the reason the record is being withheld. If the Comptroller General is not given an opportunity to inspect the record within the 20-day period, the Comptroller General may file a report with the President, the Director of the Office of Management and Budget, the Attorney General, the head of the agency, and Congress.

(2) Through an attorney the Comptroller General designates in writing, the Comptroller General may bring a civil action in the district court of the United States for the District of Columbia to require the head of the agency to produce a record—

(A) after 20 days after a report is filed under paragraph (1) of this subsection; and

(B) subject to subsection (d) of this section.

(3) The Attorney General may represent the head of the agency. The court may punish a failure to obey an order of the court under this subsection as a contempt of court.

(c)(1) Subject to subsection (d) of this section, the Comptroller General may subpena a record of a person not in the United States Government when the record is not made available to the Comptroller General to which the Comptroller General has access by law or by agreement of that person from whom access is sought. A subpena shall identify the record and the authority for the inspection and may be issued by the Comptroller General. The Comptroller General may have an individual serve a subpena under this subsection by delivering a copy to the person named in the subpena or by mailing a copy of the subpena by certified or registered mail, return receipt requested, to the residence or principal place of business of the person. Proof of service is shown by a verified return by the individual serving the subpena that states how the subpena was served or by the return receipt signed by the person served.

(2) If a person residing, found, or doing business in a judicial district refuses to comply with a subpoena issued under paragraph (1) of this subsection, the Comptroller General, through an attorney the Comptroller General designates in writing, may bring a civil action in that district court to require the person to produce the record. The court has jurisdiction of the action and may punish a

failure to obey an order of the court under this subsection as a contempt of court.

(d)(1) The Comptroller General may not bring a civil action for a record withheld under subsection (b) of this section or issue a subpena under subsection (c) of this section if—

(A) the record related to activities the President designates as foreign intelligence or counterintelligence activities;

(B) the record is specifically exempted from disclosure to the Comptroller General by a statute that—

(i) without discretion requires that the record be withheld from the Comptroller General;

(ii) establishes particular criteria for withholding the record from the Comptroller General; or

(iii) refers to particular types of records to be withheld from the Comptroller General; or

(C) by the 20th day after a report is filed under subsection (b)(1) of this section, the President or the Director certifies to the Comptroller General and Congress that a record could be withheld under section 552(b)(5) or (7) of title 5 and disclosure reasonably could be expected to impair substantially the operations of the Government.

(2) The President or the Director may not delegate certification under paragraph (1)(C) of this subsection. A certification shall include a complete explanation of the reasons for the certification.

(e)(1) The Comptroller General shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the agency from which it is obtained. Officers and employees of the General Accounting Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the agency.

(2) The Comptroller General shall keep information described in section 552(b)(6) of title 5 that the Comptroller General obtains in a way that prevents unwarranted invasions of personal privacy.

(3) This section does not authorize information to be withheld from Congress.

SEC. 717. EVALUATING PROGRAMS AND ACTIVITIES OF THE UNITED STATES GOVERNMENT.

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) The Comptroller General shall evaluate the results of a program or activity the Government carries out under existing law—

(1) on the initiative of the Comptroller General;

(2) when either House of Congress orders an evaluation; or

(3) when a committee of Congress with jurisdiction over the program or activity requests the evaluation.

(c) The Comptroller General shall develop and recommend to Congress ways to evaluate a program or activity the Government carries out under existing law.

(d)(1) On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, in-

cluding recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency.

(2) On request of a member of Congress, the Comptroller General shall give the member a copy of the material the Comptroller General compiles in carrying out this subsection that has been released by the committee for which the material was compiled.

SEC. 718. AVAILABILITY OF DRAFT REPORTS.

(a) A draft report of an audit under section 714 of this title shall be submitted to the Financial Institutions Examination Council, the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency for comment for 30 days.

(b)(1) The Comptroller General may submit a part of a draft report to an agency for comment for more than 30 days only if the Comptroller General decides, after a showing by the agency, that a longer period is necessary and likely to result in a more accurate report. The report may not be delayed because the agency does not comment within the comment period.

(2) When a draft report is submitted to an agency for comment, the Comptroller General shall make the draft report available on request to—

(A) either House of Congress, a committee of Congress, or a member of Congress if the report was begun because of a request of the House, committee, or member; or

(B) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives if the report was not begun because of a request of either House of Congress, a committee of Congress, or a member of Congress.

(3) This subsection is subject to statutory and executive order guidelines for handling and storing classified information and material.

(c) A final report of the Comptroller General shall include—

(1) a statement of significant changes of a finding, conclusion, or recommendation in an earlier draft report because of comments on the draft by an agency;

(2) a statement of the reasons the changes were made; and

(3) for a draft report submitted under subsection (a) of this section, written comments of the agency submitted during the comment period.

SEC. 719. COMPTROLLER GENERAL REPORTS.

(a) At the beginning of each regular session of Congress, the Comptroller General shall report to Congress (and to the President when requested by the President) on the work of the Comptroller General. A report shall include recommendations on—

(1) legislation the Comptroller General considers necessary to make easier the prompt and accurate making and settlement of accounts; and

(2) other matters related to the receipt, disbursement, and use of public money the Comptroller General considers advisable.

(b)(1) the Comptroller General shall include in the report to Congress under subsection (a) of this section—

(A) a review of activities under sections 717(b)–(d) and 731(e)(2) of this title, including recommendations under section 717(c) of this title;

(B) information on carrying out duties and powers of the Comptroller General under clauses (A) and (C) of this paragraph, subsections (g) and (h) of this section, and sections 717, 731(e)(2), 734, 1112, and 1113 of this title; and

(C) the name of each officer and employee of the General Accounting Office assigned or detailed to a committee of Congress, the committee to which the officer or employee is assigned or detailed, the length of the period of assignment or detail, a statement on whether the assignment or detail is finished or continuing, and compensation paid out of appropriations available to the Comptroller General for the period of the assignment or detail that has been completed.

(2) In a report under subsection (a) of this section or in a special report to Congress when Congress is in session, the Comptroller General shall include recommendations on greater economy and efficiency in public expenditures.

(c) The Comptroller General shall report to Congress—

(1) specially on expenditures and contracts an agency makes in violation of law;

(2) on the adequacy and effectiveness of—

(A) administrative audits of accounts and claims in an agency; and

(B) inspections by an agency of offices and accounts of fiscal officials; and

(3) as frequently as practicable on audits carried out under sections 713 and 714 of this title.

(d) The Comptroller General shall report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

(1) procedures and requirements the Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms, prescribe to protect the confidentiality of returns and return information made available to the Comptroller General under section 713(b)(1) of this title;

(2) the scope and subject matter of audits under section 713 of this title; and

(3) findings, conclusions, or recommendations the Comptroller General develops as a result of an audit under section 713 of this title, including significant evidence of inefficiency or mismanagement.

(e) The Comptroller General shall report on analyses carried out under section 712(3) of this title to the Committees on Governmental Affairs and Appropriations of the Senate, the Committees

on Government Operations and Appropriations of the House, and the committees with jurisdiction over legislation related to the operation of each executive agency.

(f) The Comptroller General shall give the President information on expenditures and accounting the President requests.

(g) When the Comptroller General submits a report to Congress, the Comptroller General shall deliver copies of the report to—

(1) the Committees on Governmental Affairs and Appropriations of the Senate;

(2) the Committees on Government Operations and Appropriations of the House;

(3) a committee of Congress that requested information on any part of a program or activity of a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government that is the subject of any part of a report; and

(4) any other committee of Congress requesting a copy.

(h)(1) The Comptroller General shall prepare—

(A) each month a list of reports issued during the prior month; and

(B) at least once each year a list of reports issued during the prior 12 months.

(2) A copy of each list shall be sent to each committee of Congress and each member of Congress. On request, the Comptroller General promptly shall provide a copy of a report to a committee or member.

(i) On request of a committee of Congress, the Comptroller General shall explain to and discuss with the committee or committee staff a report the Comptroller General makes that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

SEC. 720. AGENCY REPORTS.

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) When the Comptroller General makes a report that includes a recommendation to the head of an agency, the head of the agency shall submit a written statement on action taken on the recommendation by the head of the agency. The statement shall be submitted to—

(1) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives before the 61st day after the date of the report; and

(2) the Committees on Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
711	4 C.F.R. 11, 30–36, 51–53, 75, 81–83, 91, 92; 43 C.F.R. 17
712	
713–714	4 C.F.R. 82
713	GAO: Government Auditing Standards: 1994 Revision, see appendix III
714	GAO: Government Auditing Standards: 1994 Revision, see appendix III
715	
716	OMB: Circular A–34, see appendix IV
717	
718	4 C.F.R. 82
719	
720	OMB: Circular A–50, see appendix IV

TITLE 31—MONEY AND FINANCE

Subtitle I—General

* * * * * * *

CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

SEC. 901. ESTABLISHMENT OF AGENCY CHIEF FINANCIAL OFFICERS.

(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

(1) for those agencies described in subsection (b)(1)—

(A) be appointed by the President, by and with the advice and consent of the Senate; or

(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;

(2) for those agencies described in subsection (b)(2)—

(A) be appointed by the head of the agency;

(B) be in the competitive service or the senior executive service; and

(C) be career appointees; and

(3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in financial management practices in large governmental or business entities.

(b)(1) The agencies referred to in subsection (a)(1) are the following:

(A) The Department of Agriculture.
(B) The Department of Commerce.
(C) The Department of Defense.
(D) The Department of Education.
(E) The Department of Energy.
(F) The Department of Health and Human Services.
(G) The Department of Housing and Urban Development.
(H) The Department of the Interior.
(I) The Department of Justice.
(J) The Department of Labor.
(K) The Department of State.
(L) The Department of Transportation.
(M) The Department of the Treasury.
(N) The Department of Veterans Affairs.
(O) The Environmental Protection Agency.
(P) The National Aeronautics and Space Administration.

(2) The agencies referred to in subsection (a)(2) are the following:

(A) The Agency for International Development.

(B) The Federal Emergency Management Agency.
(C) The General Services Administration.
(D) The National Science Foundation.
(E) The Nuclear Regulatory Commission.
(F) The Office of Personnel Management.
(G) The Small Business Administration.
(H) The Social Security Administration.

SEC. 902. AUTHORITY AND FUNCTIONS OF AGENCY CHIEF FINANCIAL OFFICERS.

(a) An agency Chief Financial Officer shall—

(1) report directly to the head of the agency regarding financial management matters;

(2) oversee all financial management activities relating to the programs and operations of the agency;

(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—

(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;

(B) complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;

(C) complies with any other requirements applicable to such systems; and

(D) provides for—

(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;

(ii) the development and reporting of cost information;

(iii) the integration of accounting and budgeting information; and

(iv) the systematic measurement of performance;

(4) make recommendations to the head of the agency regarding the selection of the Deputy Chief Financial Officer of the agency;

(5) direct, manage, and provide policy guidance and oversight of agency financial management personnel, activities, and operations, including—

(A) the preparation and annual revision of an agency plan to—

(i) implement the 5-year financial management plan prepared by the Director of the Office of Management and Budget under section 3512(a)(3) of this title; and

(ii) comply with the requirements established under sections 3515 and subsections (e) and (f) of section 3521 of this title;

(B) the development of agency financial management budgets;

(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;

(D) the approval and management of agency financial management systems design or enhancement projects;

(E) the implementation of agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control

(6) prepare and transmit, by not later than 60 days after the submission of the audit report required by section 3521(f) of this title, an annual report to the agency head and the Director of the Office of Management and Budget, which shall include—

(A) a description and analysis of the status of financial management of the agency;

(B) the annual financial statements prepared under section 3515 of this title;

(C) the audit report transmitted to the head of the agency under section 3521(f) of this title;

(D) a summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97–255); and

(E) other information the head of the agency considers appropriate to fully inform the President and the Congress concerning the financial management of the agency;

(7) monitor the financial execution of the budget of the agency in relation to actual expenditures, and prepare and submit to the head of the agency timely performance reports; and

(8) review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

(b)(1) In addition to the authority otherwise provided by this section, each agency Chief Financial Officer—

(A) subject to paragraph (2), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the agency or which are available to the agency, and which relate to programs and operations with respect to which that agency Chief Financial Officer has responsibilities under this section;

(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental entity; and

(C) to the extent and in such amounts as may be provided in advance by appropriations Acts, may—

(i) enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

(ii) make such payments as may be necessary to carry out the provisions of this section.

(2) Except as provided in paragraph (1)(B), this subsection does not provide to an agency Chief Financial Officer any access greater

than permitted under any other law to records, reports, audits, reviews, documents, papers, recommendations, or other material of any Office of Inspector General established under the Inspector General Act of 1978 (5 U.S.C.App.).

SEC. 903. ESTABLISHMENT OF AGENCY DEPUTY CHIEF FINANCIAL OFFICERS.

(a) There shall be within each agency described in section 901(b) an agency Deputy Chief Financial Officer, who shall report directly to the agency Chief Financial Officer on financial management matters. The position of agency Deputy Chief Financial Officer shall be a career reserved position in the Senior Executive Service.

(b) Consistent with qualification standards developed by, and in consultation with, the agency Chief Financial Officer and the Director of the Office of Management and Budget, the head of each agency shall appoint as Deputy Chief Financial Officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management at large governmental entities.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
902	10 C.F.R. 170
902(a)	OMB: Circular A–129, see appendix IV

TITLE 31—MONEY AND FINANCE

Subtitle II—The Budget Process

* * * * * * *

CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

SEC. 1101. DEFINITIONS.

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

SEC. 1102. FISCAL YEAR.

The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year. Accounts of receipts and expenditures required under law to be published each year shall be published for the fiscal year.

SEC. 1103. BUDGET CEILING.

Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may be not more than the receipts of the Government for that year.

SEC. 1104. BUDGET AND APPROPRIATIONS AUTHORITY OF THE PRESIDENT.

(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of

both Houses of Congress. This subsection does not limit the authority of a committee of Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress. Committees of the House of Representatives and Senate shall receive prompt notification of all such changes.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.

SEC. 1105. BUDGET CONTENTS AND SUBMISSION TO CONGRESS.

(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) Information on activities and functions of the Government.

(2) When practicable, information on costs and achievements of Government programs.

(3) Other desirable classifications of information.

(4) A reconciliation of the summary information on expenditures with proposed appropriations.

(5) Except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) Estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) Appropriations, expenditures, and receipts of the Government in the prior fiscal year.

(8) Estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) Balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) Essential information about the debt of the Government.

(11) Other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) For each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) An allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) An allowance for unanticipated uncontrollable expenditures for that year.

(15) A separate statement on each of the items referred to in section 301(a)(1)–(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)–(5)).

(16) The level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3)) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) Information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) A comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) A comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) An analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) A horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) A statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) Separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) Recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(25) A separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.

(26) [Terminated]

(27) A separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.

(28) A separate statement of the amount of appropriations requested for the Office of Federal Financial Management.

(29) Beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.

(30) Information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

(31) An analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest

when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military capital investment programs. In addition, the analysis under this paragraph shall contain—

(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

(i) economic assumptions;

(ii) engineering standards;

(iii) estimates of spending for operation and maintenance;

(iv) estimates of expenditures for similar investments by State and local governments; and

(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not

classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

(A) roadways or bridges,
(B) airports or airway facilities,
(C) mass transportation systems,
(D) wastewater treatment or related facilities,
(E) water resources projects,
(F) hospitals,
(G) resource recovery facilities,
(H) public buildings,
(I) space or communications facilities,
(J) railroads, and
(K) federally assisted housing.

(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

(5) For purposes of this subsection—

(A) the term "construction" includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(B) the term "acquisition" includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

(C) the term "rehabilitation" includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.

(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

(2)(A) In paragraph (1), except as provided in subparagraph (B), the term "advisory and assistance services" means the following services when provided by nongovernmental sources:

(i) Management and professional support services.

(ii) Studies, analyses, and evaluations.

(iii) Engineering and technical services.

(B) In paragraph (1), the term "advisory and assistance services" does not include the following services:

(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

(ii) Architectural and engineering services, as defined in section 901 of the Brooks Architect-Engineers Act (40 U.S.C. 541).

(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.

SEC. 1106. SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements, and financial condition of the United States Government.

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)–(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

(c) Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same ex-

tent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate.

SEC. 1107. DEFICIENCY AND SUPPLEMENTAL APPROPRIATIONS.

The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under that section.

SEC. 1108. PREPARATION AND SUBMISSION OF APPROPRIATIONS REQUESTS TO THE PRESIDENT.

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

SEC. 1109. CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.

(a) On or before the first Monday after January 3 of each year (on or before February 5 in 1986), the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading "Budget Authority and Outlays by Function and Agency", by major programs in each function, and by agency. The President shall also include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before March 1 of each year.

SEC. 1110. YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the first and 2d fiscal years.

SEC. 1111. IMPROVING ECONOMY AND EFFICIENCY.

To improve economy and efficiency in the United States Government, the President shall—

(1) make a study of each agency to decide, and may send Congress recommendations, on changes that should be made in—

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government.

SEC. 1112. FISCAL, BUDGET, AND PROGRAM INFORMATION.

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government except a mixed-ownership Government corporation.

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, programs, projects, activities, and functions;

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and use of standard terms and classifications by the executive branch of the Government; and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

(1) consistency in budget and accounting classifications;

(2) synchronization between those classifications and organizational structure; and

(3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of

State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budgets of assistance of the United States Government.

SEC. 1113. CONGRESSIONAL INFORMATION.

(a)(1) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, and Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)–(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications.

[SEC. 1114. REPEALED. PUB.L. 103–355, TITLE II, SEC. 2454(c)(2), OCT. 13, 1994, 108 STAT. 3326]

SEC. 1115. PERFORMANCE PLANS.

(a) In carrying out the provisions of section 1105(a)(29), the Director of the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

(1) establish performance goals to define the level of performance to be achieved by a program activity;

(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (b);

(3) briefly describe the operational processes, skills, and technology, and the human, capital, information, or other resources required to meet the performance goals;

(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

(5) provide a basis for comparing actual program results with the established performance goals; and

(6) describe the means to be used to verify and validate measured values.

(b) If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

(1) include separate descriptive statements of—

(A)(i) a minimally effective program, and

(ii) a successful program, or

(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

(c) For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

(d) An agency may submit with its annual performance plan an appendix covering any portion of the plan that—

(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

(2) is properly classified pursuant to such Executive order.

(e) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

(f) For purposes of this section and sections 1116 through 1119, and sections 9703 and 9704 the term—

(1) "agency" has the same meaning as such term is defined under section 306(f) of title 5;

(2) "outcome measure" means an assessment of the results of a program activity compared to its intended purpose;

(3) "output measure" means the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

(4) "performance goal" means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

(5) "performance indicator" means a particular value or characteristic used to measure output or outcome;

(6) "program activity" means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

(7) "program evaluation" means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.

HISTORICAL AND STATUTORY NOTES

Congressional Findings and Statement of Purposes

Section 2 of Pub.L. 103–62 provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) waste and inefficiency in Federal programs undermines the confidence of the American people in the Government and reduces the Federal Government's ability to address adequately vital public needs;

"(2) Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance; and

"(3) congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results.

"(b) PURPOSES.—The purposes of this Act [see Short Title of 1993 Amendments note set out under section 1101 of this title] are to—

"(1) improve the confidence of the American people in the capability of the Federal Government, by systematically holding Federal agencies accountable for achieving program results;

"(2) initiate program performance reform with a series of pilot projects in setting program goals, measuring program performance against those goals, and reporting publicly on their progress;

"(3) improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction;

"(4) help Federal managers improve service delivery, by requiring that they plan for meeting program objectives and by providing them with information about program results and service quality;

"(5) improve congressional decisionmaking by providing more objective information on achieving statutory objectives, and on the relative effectiveness and efficiency of Federal programs and spending; and

"(6) improve internal management of the Federal Government."

SEC. 1116. PROGRAM PERFORMANCE REPORTS.

(a) No later than March 31, 2000, and no later than March 31 of each year thereafter, the head of each agency shall prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

(b)(1) Each program performance report shall set forth the performance indicators established in the agency performance plan under section 1115, along with the actual program performance

achieved compared with the performance goals expressed in the plan for that fiscal year.

(2) If performance goals are specified in an alternative form under section 1115(b), the results of such program shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall—

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(b)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title; and

(5) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(e) An agency head may include all program performance information required annually under this section in an annual financial statement required under section 3515 if any such statement is submitted to the Congress no later than March 31 of the applicable fiscal year.

(f) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of program performance reports under this section shall be performed only by Federal employees.

SEC. 1117. EXEMPTION.

The Director of the Office of Management and Budget may exempt from the requirements of sections 1115 and 1116 of this title and section 306 of title 5, any agency with annual outlays of $20,000,000 or less.

SEC. 1118. PILOT PROJECTS FOR PERFORMANCE GOALS.

(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than ten agencies as pilot projects in performance measurement for fiscal years 1994, 1995, and 1996. The selected agencies shall re-

flect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall undertake the preparation of performance plans under section 1115, and program performance reports under section 1116, other than section 1116(c), for one or more of the major functions and operations of the agency. A strategic plan shall be used when preparing agency performance plans during one or more years of the pilot period.

(c) No later than May 1, 1997, the Director of the Office of Management and Budget shall submit a report to the President and to the Congress which shall—

(1) assess the benefits, costs, and usefulness of the plans and reports prepared by the pilot agencies in meeting the purposes of the Government Performance and Results Act of 1993;

(2) identify any significant difficulties experienced by the pilot agencies in preparing plans and reports; and

(3) set forth any recommended changes in the requirements of the provisions of Government Performance and Results Act of 1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, 1119 and 9703 of this title, and this section.

SEC. 1119. PILOT PROJECTS FOR PERFORMANCE BUDGETING.

(a) The Director of the Office of Management and Budget, after consultation with the head of each agency shall designate not less than five agencies as pilot projects in performance budgeting for fiscal years 1998 and 1999. At least three of the agencies shall be selected from those designated as pilot projects under section 1118, and shall also reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall cover the preparation of performance budgets. Such budgets shall present, for one or more of the major functions and operations of the agency, the varying levels of performance, including outcome-related performance, that would result from different budgeted amounts.

(c) The Director of the Office of Management and Budget shall include, as an alternative budget presentation in the budget submitted under section 1105 for fiscal year 1999, the performance budgets of the designated agencies for this fiscal year.

(d) No later than March 31, 2001, the Director of the Office of Management and Budget shall transmit a report to the President and to the Congress on the performance budgeting pilot projects which shall—

(1) assess the feasibility and advisability of including a performance budget as part of the annual budget submitted under section 1105;

(2) describe any difficulties encountered by the pilot agencies in preparing a performance budget;

(3) recommend whether legislation requiring performance budgets should be proposed and the general provisions of any legislation; and

(4) set forth any recommended changes in the other requirements of the Government Performance and Results Act of

1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, and 9703 of this title, and this section.

(e) After receipt of the report required under subsection (d), the Congress may specify that a performance budget be submitted as part of the annual budget submitted under section 1105.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements and Guidelines
1104	OMB: Bulletin 93–18, see appendix IV, Circular A–133
1105	OMB: Circular A–11, see appendix IV, Circular A–127
1105(a)	OMB: Circular A–129, see appendix IV
1105(a)	OMB: Bulletin 93–18, see appendix IV
1108	OMB: Circular A–129, see appendix IV
1111	5 C.F.R. 1320; 22 C.F.R. 518
	OMB: Circulars A–25, A–73, A–94, A–110, A–122, A–133, see appendix IV, Bulletin 94–09
1112	Circular A–127
1113	Circular A–127
1115	OMB: Circular A–11, see appendix IV
1116	OMB: Circular A–11, see appendix IV
1117	OMB: Circular A–11, see appendix IV
1118	OMB: Circular A–11, see appendix IV
1119	OMB: Circular A–11, see appendix IV

TITLE 31—MONEY AND FINANCE

Subtitle II—the Budget Process

* * * * * * *

CHAPTER 13—APPROPRIATIONS

SUBCHAPTER I—GENERAL

SEC. 1301. APPLICATION.

(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

(b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(c) An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation—

(1) is for rivers and harbors, lighthouses, public buildings, or the pay of the Navy and Marine Corps; or

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

(d) A law may be construed to make an appropriation out of the Treasury or to authorize making a contract for the payment of money in excess of an appropriation only if the law specifically states that an appropriation is made or that such a contract may be made.

SEC. 1302. DETERMINING AMOUNTS APPROPRIATED.

Except as specifically provided by law, the total amount appropriated in an appropriation law is determined by adding up the specific amounts or rates appropriated in each paragraph of the law.

SEC. 1303. EFFECT OF CHANGES IN TITLES OF APPROPRIATIONS.

Expenditures for a particular object or purpose authorized by a law (and referred to in that law by the specific title previously used for the appropriation item in the appropriation law concerned) may be made from a corresponding appropriation item when the specific title is changed or eliminated from a later appropriation law.

SEC. 1304. JUDGMENTS, AWARDS, AND COMPROMISE SETTLEMENTS.

(a) Necessary amounts are appropriated to pay final judgments, awards, compromise settlements, and interest and costs specified in the judgments or otherwise authorized by law when—

(1) payment is not otherwise provided for;

(2) payment is certified by the Comptroller General; and

(3) the judgment, award, or settlement is payable—

(A) under section 2414, 2517, 2672, or 2677 of title 28;

(B) under section 3723 of this title;

(C) under a decision of a board of contract appeals; or

(D) in excess of an amount payable from the appropriations of an agency for a meritorious claim under section 2733 or 2734 of title 10, section 715 of title 32, or section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473).

(b)(1) Interest may be paid from the appropriation made by this section—

(A) on a judgment of a district court, only when the judgment becomes final after review on appeal or petition by the United States Government, and then only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance; or

(B) on a judgment of the Court of Appeals for the Federal Circuit or the United States Claims Court under section 2516(b) of title 28, only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance.

(2) Interest payable under this subsection in a proceeding reviewed by the Supreme Court is not allowed after the end of the term in which the judgment is affirmed.

(c)(1) A judgment or compromise settlement against the Government shall be paid under this section and sections 2414, 2517, and 2518 of title 28 when the judgment or settlement arises out of an express or implied contract made by—

(A) the Army and Air Force Exchange Service;

(B) the Navy Exchanges;

(C) the Marine Corps Exchanges;

(D) the Coast Guard Exchanges; or

(E) the Exchange Councils of the National Aeronautics and Space Administration.

(2) The Exchange making the contract shall reimburse the Government for the amount paid by the Government.

SEC. 1305. MISCELLANEOUS PERMANENT APPROPRIATIONS.

Necessary amounts are appropriated for the following:

(1) to pay the proceeds of the personal estate of a United States citizen dying abroad to the legal representative of the deceased on proper demand and proof.

(2) to pay interest on the public debt under laws authorizing payment.

(3) to pay proceeds from derelict and salvage cases adjudged by the courts of the United States to salvors.

(4) to make payments required under contracts made under section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) for the payment of interest on obligations guaranteed by the Secretary of Housing and Urban Development under section 108.

(5) to make payments required under contracts made under section 103(b) of the Housing Act of 1949 (42 U.S.C. 1453(b))

for projects or programs for which amounts had been committed before January 1, 1975, and for which amounts have not been appropriated.

(6) to pay the interest on the fund derived from the bequest of James Smithson, for the construction of buildings and expenses of the Smithsonian Institution, at the rates determined under section 5590 of the Revised Statutes (20 U.S.C. 54).

(7) ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING.—To make payments required under contracts made under section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c).

(8) COLLEGE HOUSING GRANTS.—To make payments required under contracts made under title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.).

(9) RENT SUPPLEMENT PROGRAM.—To make payments required under contracts under section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s).

(10) HOMEOWNERSHIP AND RENTAL HOUSING ASSISTANCE.—To make payments required under contracts under sections 235 and 236, respectively, of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z–1).

SEC. 1306. USE OF FOREIGN CREDITS.

Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.

SEC. 1307. PUBLIC BUILDING CONSTRUCTION.

Amounts appropriated to construct public buildings remain available until completion of the work. When a building is completed and outstanding liabilities for the construction are paid, balances remaining shall revert immediately to the Treasury.

SEC. 1308. TELEPHONE AND METERED SERVICES.

Charges for telephone and metered services (such as gas, electricity, water, and steam) for a time period beginning in one fiscal year or allotment period and ending in another fiscal year or allotment period may be charged against the appropriation or allotment current at the end of the time period covered by the service.

SEC. 1309. SOCIAL SECURITY TAX.

Amounts made available for the compensation of officers and employees of the United States Government may be used to pay taxes imposed on an agency as an employer under chapter 21 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq.).

SEC. 1310. APPROPRIATIONS FOR PRIVATE ORGANIZATIONS.

(a) The Secretary of the Treasury shall credit an appropriation for a private organization to the appropriate fiscal official of the organization. The credit shall be carried on the accounts of—

(1) the Treasury; or

(2) a designated depositary of the United States Government (except a national bank).

(b) The fiscal official may pay an amount out of the appropriation only on a check of the fiscal official—

(1) payable to the order of the person to whom payment is to be made; and

(2) that states the specific purpose for which the amount is to be applied.

(c)(1) The fiscal official may pay an amount of less than $20 out of the appropriation on a check—

(A) payable to the order of the fiscal official; and

(B) that states the amount is to be applied to small claims.

(2) The fiscal official shall provide the Secretary or the designated depositary on which the check is drawn with a certified list of the claims. The list shall state the kind and amount of each claim and the name of each claimant.

SUBCHAPTER II—TRUST FUNDS AND REFUNDS

SEC. 1321. TRUST FUNDS

(a) The following are classified as trust funds:

(1) Philippine special fund (customs duties).

(2) Philippine special fund (internal revenue).

(3) Unclaimed condemnation awards, Department of the Treasury.

(4) Naval reservation, Olangapo civil fund.

(5) Armed Forces Retirement Home Trust Fund.

(6) Return to deported aliens of passage money collected from steamship companies.

(7) Vocational rehabilitation, special fund.

(8) Library of Congress gift fund.

(9) Library of Congress trust fund, investment account.

(10) Library of Congress trust fund, income from investment account.

(11) Library of Congress trust fund, permanent loan.

(12) Relief and rehabilitation, Longshoremen's and Harbor Workers' Compensation Act.

(13) Cooperative work, Forest Service.

(14) Wages and effects of American seamen, Department of Commerce.

(15) Pension money, Saint Elizabeths Hospital.

(16) Personal funds of patients, Saint Elizabeths Hospital.

(17) National Park Service, donations.

(18) Purchase of lands, national parks, donations.

(19) Extension of winter-feed facilities of game animals of Yellowstone National Park, donations.

(20) Indian moneys, proceeds of labor, agencies, schools, and so forth.

(21) Funds of Federal prisoners.

(22) Commissary funds, Federal prisons.

(23) Pay of the Navy, deposit funds.

(24) Pay of Marine Corps, deposit funds.

(25) Pay of the Army, deposit fund.

(26) Preservation birthplace of Abraham Lincoln.

(27) Funds contributed for flood control, Mississippi River, its outlets and tributaries.

(28) Funds contributed for flood control, Sacramento River, California.

(29) Effects of deceased employees, Department of the Treasury.

(30) Money and effects of deceased patients, Public Health Service.

(31) Effects of deceased employees, Department of Commerce.

(32) Topographic survey of the United States, contributions.

(33) National Institutes of Health, gift fund.

(34) National Institutes of Health, conditional gift fund.

(35) Patients' deposits, United States Marine Hospital, Carville, Louisiana.

(36) Estates of deceased personnel, Department of the Army.

(37) Effects of deceased employees, Department of the Interior.

(38) Fredericksburg and Spotsylvania County Battlefields memorial fund.

(39) Petersburg National Military Park fund.

(40) Gorgas Memorial Laboratory quotas.

(41) Contributions to International Boundary Commission, United States and Mexico.

(42) Salvage proceeds, American vessels.

(43) Wages due American seamen.

(44) Federal Industrial Institution for Women, contributions for chapel.

(45) General post fund, National Homes, Department of Veterans Affairs.

(46) Repatriation of American seamen.

(47) Expenses, public survey work, general.

(48) Expenses, public survey work, Alaska.

(49) Funds contributed for improvement of roads, bridges, and trails, Alaska.

(50) Protective works and measures, Lake of the Woods and Rainy River, Minnesota.

(51) Washington redemption fund.

(52) Permit fund, District of Columbia.

(53) Unclaimed condemnation awards, National Capital Park and Planning Commission, District of Columbia.

(54) Unclaimed condemnation awards, Rock Creek and Potomac Parkway Commission, District of Columbia.

(55) Miscellaneous trust fund deposits, District of Columbia.

(56) Surplus fund, District of Columbia.

(57) Relief and rehabilitation, District of Columbia Workmen's Compensation Act.

(58) Inmates' fund, workhouse and reformatory, District of Columbia.

[(59) Repealed. Pub.L. 101–510, Div. A, Title XV, Sec. 1533(c)(1), Nov. 5, 1990, 104 Stat. 1735]

(60) Chamber Music Auditorium, Library of Congress.

(61) Bequest of Gertrude Hubbard.

(62) Puerto Rico special fund (Internal Revenue).

(63) Miscellaneous trust funds, Department of State.

(64) Funds contributed for improvement of (name of river or harbor).

(65) Funds advanced for improvement of (name of river or harbor).
(66) Funds contributed for Indian projects.
(67) Miscellaneous trust funds of Indian tribes.
(68) Ship's stores profits, Navy.
(69) Completing Surveys within Railroad Land Grants.
(70) Memorial to Women of World Wars, contributions.
(71) Funds contributed for Memorial to John Ericsson.
(72) American National Red Cross Building, contributions.
(73) Estate of decedents, Department of State, Trust Fund.
(74) Funds due Incompetent Beneficiaries, Department of Veterans Affairs.
(75) To promote the Education of the Blind (principal).
(76) Paving Government Road across Fort Sill Military Reservation, Okla.
(77) Bequest of William F. Edgar, Museum and Library, office of Surgeon General of the Army.
(78) Funds Contributed for Flood Control (name of river, harbor, or project).
(79) Matured obligations of the District of Columbia.
(80) To promote the education of the blind (interest).
[(81) Repealed. Pub.L. 101–510, Div. A. Title XV, Sec. 1533(c)(1), Nov. 5, 1990, 104 Stat. 1735]
(82) Post-Vietnam Era Veterans Education Account, Department of Veterans Affairs.
(83) United States Government life insurance fund, Department of Veterans Affairs.
(84) Estates of deceased soldiers, United States Army.
(85) Teachers Retirement Fund Deductions, District of Columbia.
(86) Teachers Retirement Fund, Government Reserves, District of Columbia.
(87) Expenses of Smithsonian Institution Trust Fund (principal).
(88) Civil Service Retirement and Disability Fund.
(89) Canal Zone Retirement and Disability Fund.
(90) Foreign Service Retirement and Disability Fund.
(91) Violent Crime Reduction Trust Fund.

(b) Amounts (except amounts received by the Comptroller of the Currency and the Federal Deposit Insurance Corporation) that are analogous to the funds named in subsection (a) of this section and are received by the United States Government as trustee shall be deposited in an appropriate trust fund account in the Treasury. Amounts accruing to these funds (except to the trust fund "Armed Forces Retirement Home Trust Fund") are appropriated to be disbursed in compliance with the terms of the trust. Expenditures from the trust fund "Armed Forces Retirement Home Trust Fund" shall be made only under annual appropriations and only if the appropriations are specifically authorized by law.

SEC. 1322. PAYMENTS OF UNCLAIMED TRUST FUND AMOUNTS AND REFUND OF AMOUNTS ERRONEOUSLY DEPOSITED.

(a) On September 30 of each year, the Secretary of the Treasury shall transfer to the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown"

that part of the balance of a trust fund account named in section 1321(a)(1)–(82) of this title or an analogous trust fund established under section 1321(b) of this title that has been in the fund for more than one year and represents money belonging to individuals whose whereabouts are unknown. Subsequent claims to the transferred funds shall be paid from the account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown."

(b) Except as provided in subsection (c) of this section, necessary amounts are appropriated to the Secretary of the Treasury to make payments from—

(1) the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown"; and

(2) the United States Government account "Refund of Moneys Erroneously Received and Covered" and other collections erroneously deposited that are not properly chargeable to another appropriation.

(c)(1) The Secretary of the Treasury shall hold in the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts Are Unknown" the balance remaining after the final distribution of unclaimed Postal Savings System deposits under subsection (a) of the first section of the Act of August 13, 1971 (Public Law 92–117; 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit concerning the disposition of unclaimed or abandoned property.

(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims made within the time limitation set forth in paragraph (3) of this subsection.

(3) No claim for any Postal Savings System deposit may be brought more than one year from the date of the enactment of the Postal Savings System Statute of Limitations Act.

(4) The United States Postal Service shall assist the Secretary of the Treasury in providing public notice of the time limitation set forth in paragraph (3) of this subsection by posting notices thereof in all post offices as soon as practicable after the date of the enactment of the Postal Savings System Statute of Limitations Act.

SEC. 1323. TRUST FUNDS FOR CERTAIN FEES, DONATIONS, QUASI-PUBLIC AMOUNTS, AND UNEARNED AMOUNTS.

(a) Amounts from the following sources held in checking accounts of disbursing officials shall be deposited in the Treasury to the appropriate trust fund receipt accounts:

(1) unearned money, lands (Department of the Interior).

(2) reentry permit fees (Department of Justice).

(3) naturalization fees (Department of Justice).

(4) registry fees (Department of Justice).

(b) Amounts deposited under subsection (a) of this section are appropriated for refunds. Earned parts of those amounts shall be transferred and credited to the appropriate receipt fund accounts.

(c) Donations, quasi-public amounts, and unearned amounts shall be deposited in the Treasury as trust funds and are appropriated

for disbursement under the terms of the trusts when the donation or amount is—

(1) administered by officers and employees of the United States Government; and

(2) carried in checking accounts of disbursing officials or others required to account to the Comptroller General (except clerks and marshals of the United States district courts).

SEC. 1324. REFUND OF INTERNAL REVENUE COLLECTIONS.

(a) Necessary amounts are appropriated to the Secretary of the Treasury for refunding internal revenue collections as provided by law, including payment of—

(1) claims for prior fiscal years; and

(2) accounts arising under—

(A) "Allowance or drawback (Internal Revenue)";

(B) "Redemption of stamps (Internal Revenue)";

(C) "Refunding legacy taxes, Act of March 30, 1928";

(D) "Repayment of taxes on distilled spirits destroyed by casualty"; and

(E) "Refunds and payments of processing and related taxes".

(b) Disbursements may be made from the appropriation made by this section only for—

(1) refunds to the limit of liability of an individual tax account; and

(2) refunds due from credit provisions of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) enacted before January 1, 1978.

SUBCHAPTER III—LIMITATIONS, EXCEPTIONS, AND PENALTIES

SEC. 1341. LIMITATIONS ON EXPENDING AND OBLIGATING AMOUNTS.

(a)(1) An officer or employee of the United States Government or of the District of Columbia government may not—

(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation;

(B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law;

(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) This subsection does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

(b) An article to be used by an executive department in the District of Columbia that could be bought out of an appropriation made to a regular contingent fund of the department may not be bought out of another amount available for obligation.

SEC. 1342. LIMITATION ON VOLUNTARY SERVICES.

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government. As used in this section, the term "emergencies involving the safety of human life or the protection of property" does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.

1990 AMENDMENT.

Pub.L. 101–508, Sec. 13213(b), added sentence: "As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property."

SEC. 1343. BUYING AND LEASING PASSENGER MOTOR VEHICLES AND AIRCRAFT.

(a) In this section, buying a passenger motor vehicle or aircraft includes a transfer of the vehicle or aircraft between agencies.

(b) An appropriation may be expended to buy or lease passenger motor vehicles only—

(1) for the use of—

(A) the President;

(B) the secretaries to the President; or

(C) the heads of executive departments listed in section 101 of title 5; or

(2) as specifically provided by law.

(c)(1) Except as specifically provided by law, an agency may use an appropriation to buy a passenger motor vehicle (except a bus or ambulance) only at a total cost (except costs required only for transportation) that—

(A) includes the price of systems and equipment the Administrator of General Services decides is incorporated customarily in standard passenger motor vehicles completely equipped for ordinary operation;

(B) includes the value of a vehicle used in exchange;

(C) is not more than the maximum price established by the agency having authority under law to establish a maximum price; and

(D) is not more than the amount specified in a law.

(2) Additional systems and equipment may be bought for a passenger motor vehicle if the Administrator decides the purchase is appropriate. The price of additional systems or equipment is not included in deciding whether the cost of the vehicle is within a maximum price specified in a law.

(d) An appropriation (except an appropriation for the armed forces) is available to buy, maintain, or operate an aircraft only if the appropriation specifically authorizes the purchase, maintenance, or operation.

(e) This section does not apply to—

(1) buying, maintaining, and repairing passenger motor vehicles by the United States Capitol Police;

(2) buying, maintaining, and repairing vehicles necessary to carry out projects to improve, preserve, and protect rivers and harbors; or

(3) leasing, maintaining, repairing, or operating motor passenger vehicles necessary in the field work of the Department of Agriculture.

NOTE

Maximum Purchase Price of Motor Vehicles; Intelligence Activities Exception

Pub.L. 103–139, Title VIII, Sec. 8105, Nov. 11, 1993, 107 Stat. 1464, provided that: "During the current fiscal year and thereafter, monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 [set out as a note under section 401 of Title 50, National Defense] or successor orders."

Maximum Purchase Price of Motor Vehicles; Exception

Pub.L. 104–52, Title VI, § 604, Nov. 19, 1995, 109 Stat. 497, provided that: "Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810) [this section], for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: Provided, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: Provided further, That the limits set forth in this section may not be exceeded by more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 [15 U.S.C.A. Sec. 2501 et seq.]: Provided further, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 [known as the Clean Air Act Amendments of 1990; for distribution of this Act to the Code, see Tables; for provisions relating to clean alternative fuel vehicles, see section 229(a) of such Act, which is classified to 42 U.S.C.A. § 7581 et seq.] over the cost of comparable conventionally fueled vehicles."

SEC. 1344. PASSENGER CARRIER USE.

(a)(1) Funds available to a Federal agency, by appropriation or otherwise, may be expended by the Federal agency for the maintenance, operation, or repair of any passenger carrier only to the extent that such carrier is used to provide transportation for official purposes. Notwithstanding any other provision of law, transporting any individual other than the individuals listed in subsections (b) and (c) of this section between such individual's residence and such

individual's place of employment is not transportation for an official purpose.

(2) For purposes of paragraph (1), transportation between the residence of an officer or employee and various locations that is—

(A) required for the performance of field work, in accordance with regulations prescribed pursuant to subsection (e) of this section, or

(B) essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties, is transportation for an official purpose, when approved in writing by the head of the Federal agency.

(b) A passenger carrier may be used to transport between residence and place of employment the following officers and employees of Federal agencies:

(1)(A) the President and the Vice President;

(B) no more than 6 officers or employees in the Executive Office of the President, as designated by the President; and

(C) no more than 10 additional officers or employees of Federal agencies, as designated by the President;

(2) the Chief Justice and the Associate Justices of the Supreme Court;

(3)(A) officers compensated at Level I of the Executive Schedule pursuant to section 5312 of title 5; and

(B) a single principal deputy to an officer described in subclause (A) of this clause, when a determination is made by such officer that such transportation is appropriate;

(4) principal diplomatic and consular officials abroad, and the United States Ambassador to the United Nations;

(5) the Deputy Secretary of Defense and Under Secretaries of Defense, the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, the members and Vice Chairman of the Joint Chiefs of Staff, and the Commandant of the Coast Guard;

(6) the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation;

(7) the Chairman of the Board of Governors of the Federal Reserve System;

(8) the Comptroller General of the United States and the Postmaster General of the United States; and

(9) an officer or employee with regard to whom the head of a Federal agency makes a determination, in accordance with subsection (d) of this section and with regulations prescribed pursuant to paragraph (1) of subsection (e), that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business.

Except as provided in paragraph (2) of subsection (d), any authorization made pursuant to clause (9) of this subsection to permit the use of a passenger carrier to transport an officer or employee between residence and place of employment shall be effective for not more than 15 calendar days.

(c) A passenger carrier may be used to transport between residence and place of employment any person for whom protection is

specifically authorized pursuant to section 3056(a) of title 18 or for whom transportation is authorized pursuant to section 28 of the State Department Basic Authorities Act of 1956, section 2637 of title 10, or section 8(a)(1) of the Central Intelligence Agency Act of 1949.

(d)(1) Any determination made under subsection (b)(9) of this section shall be in writing and shall include the name and title of the officer or employee affected, the reason for such determination, and the duration of the authorization for such officer or employee to use a passenger carrier for transportation between residence and place of employment.

(2) If a clear and present danger, an emergency, or a compelling operational consideration described in subsection (b)(9) of this section extends or may extend for a period in excess of 15 calendar days, the head of the Federal agency shall determine whether an authorization under such paragraph shall be extended in excess of 15 calendar days for a period of not more than 90 additional calendar days. Determinations made under this paragraph may be reviewed by the head of such agency at the end of each such period, and, where appropriate, a subsequent determination may be made whether such danger, emergency, or consideration continues to exist and whether an additional extension, not to exceed 90 calendar days, may be authorized. Determinations made under this paragraph shall be in accordance with regulations prescribed pursuant to paragraph (1) of subsection (e).

(3) The authority to make designations under subsection (b)(1) of this section and to make determinations pursuant to subsections (a)(2) and (b)(3)(B) and (9) of this section and pursuant to paragraph (2) of this subsection may not be delegated, except that, with respect to the Executive Office of the President, the President may delegate the authority of the President under subsection (b)(9) of this section to an officer in the Executive Office of the President. No designation or determination under this section may be made solely or principally for the comfort or convenience of the officer or employee.

(4) Notification of each designation or determination made under subsection (b)(1), (3)(B), and (9) of this section and under paragraph (2) of this subsection, including the name and title of the officer or employee affected, the reason for any determination under subsection (b)(9), and the expected duration of any authorization under subsection (b)(9), shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(e)(1) Not later than March 15, 1987, the Administrator of General Services, after consultation with the Comptroller General, the Director of the Office of Management and Budget, and the Director of the Administrative Office of the United States Courts, shall promulgate regulations governing the heads of all Federal agencies in making the determinations authorized by subsections (a)(2)(A), (b)(9), and (d)(2) of this section. Such regulations shall specify that the comfort and convenience of an officer or employee is not sufficient justification for authorizations of transportation under this section.

(2) In promulgating regulations under paragraph (1) of this subsection, the Administrator of General Services shall provide criteria defining the term "field work" for purposes of subsection (a)(2)(A) of this section. Such criteria shall ensure that transportation between an employee's residence and the location of the field work will be authorized only to the extent that such transportation will substantially increase the efficiency and economy of the Government.

(f) Each Federal agency shall maintain logs or other records necessary to establish the official purpose for Government transportation provided between an individual's residence and such individual's place of employment pursuant to this section.

(g) As used in this section—

(1) the term "passenger carrier" means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government; and

(2) the term "Federal agency" means—

(A) a department (as such term is defined in section 18 of the Act of August 2, 1946 (41 U.S.C. 5a));

(B) an Executive department (as such term is defined in section 101 of title 5);

(C) a military department (as such term is defined in section 102 of title 5);

(D) a Government corporation (as such term is defined in section 103(1) of title 5);

(E) a Government controlled corporation (as such term is defined in section 103(2) of title 5);

(F) a mixed-ownership Government corporation (as such term is defined in section 9101(2) of this title);

(G) any establishment in the executive branch of the Government (including the Executive Office of the President);

(H) any independent regulatory agency (including an independent regulatory agency specified in section 3502(10) of title 44);

(I) the Smithsonian Institution; and

(J) any nonappropriated fund instrumentality of the United States,

except that such term does not include the government of the District of Columbia.

(h) Notwithstanding section 410(a) of title 39, this section applies to the United States Postal Service.

SEC. 1345. EXPENSES OF MEETINGS.

Except as specifically provided by law, an appropriation may not be used for travel, transportation, and subsistence expenses for a meeting. This section does not prohibit—

(1) an agency from paying the expenses of an officer or employee of the United States Government carrying out an official duty; and

(2) the Secretary of Agriculture from paying necessary expenses for a meeting called by the Secretary for 4-H Boys and

Girls Clubs as part of the cooperative extension work of the Department of Agriculture.

SEC. 1346. COMMISSIONS, COUNCILS, BOARDS, AND INTERAGENCY AND SIMILAR GROUPS.

(a) Except as provided in this section—

(1) public money and appropriations are not available to pay—

(A) the pay or expenses of a commission, council, board, or similar group, or a member of that group;

(B) expenses related to the work or the results of work or action of that group; or

(C) for the detail or cost of personal services of an officer or employee from an executive agency in connection with that group; and

(2) an accounting or disbursing official, absent a special appropriation to pay the account or charge, may not allow or pay an account or charge related to that group.

(b) Appropriations of an executive agency are available for the expenses of an interagency group conducting activities of interest common to executive agencies when the group includes a representative of the agency. The representatives receive no additional pay because of membership in the group. An officer or employee of an executive agency not a representative of the group may not receive additional pay for providing services for the group.

(c) Subject to section 1347 of this title, this section does not apply to—

(1) commissions, councils, boards, or similar groups authorized by law;

(2) courts-martial or courts of inquiry of the armed forces; or

(3) the contingent fund related to foreign relations at the disposal of the President.

SEC. 1347. APPROPRIATIONS OR AUTHORIZATIONS REQUIRED FOR AGENCIES IN EXISTENCE FOR MORE THAN ONE YEAR.

(a) An agency in existence for more than one year may not use amounts otherwise available for obligation to pay its expenses without a specific appropriation or specific authorization by law. If the principal duties and powers of the agency are substantially the same as or similar to the duties and powers of an agency established by executive order, the agency established later is deemed to have been in existence from the date the agency established by the order came into existence.

(b) Except as specifically authorized by law, another agency may not use amounts available for obligation to pay expenses to carry out duties and powers substantially the same as or similar to the principal duties and powers of an agency that is prohibited from using amounts under this section.

SEC. 1348. TELEPHONE INSTALLATION AND CHARGES.

(a)(1) Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences.

(2) Under regulations of the Secretary of State, appropriations may be used to install and pay for the use of telephones in residences owned or leased by the United States Government in for-

eign countries for the use of the Foreign Service. Subsection (b) of this section applies to long-distance calls made on those telephones.

(b) Appropriations of an agency are available to pay charges for a long-distance call if required for official business and the voucher to pay for the call is sworn to by the head of the agency. Appropriations of an executive agency are available only if the head of the agency also certifies that the call is necessary in the interest of the Government.

(c) Under regulations prescribed by the Secretary of the Army on recommendation of the Chief of Engineers, not more than $30,000 may be expended each fiscal year to install and use in private residences telephones required for official business in constructing and operating locks and dams for navigation, flood control, and related water uses.

(d) Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes, in other private residences.

SEC. 1349. ADVERSE PERSONNEL ACTIONS

(a) An officer or employee of the United States Government or of the District of Columbia government violating section 1341(a) or 1342 of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

(b) An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office.

SEC. 1350. CRIMINAL PENALTY.

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1341(a) or 1342 of this title shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

SEC. 1351. REPORTS ON VIOLATIONS.

If an officer or employee of an executive agency or an officer or employee of the District of Columbia government violates section 1341(a) or 1342 of this title, the head of the agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

SEC. 1352. LIMITATION ON USE OF APPROPRIATED FUNDS TO INFLUENCE CERTAIN FEDERAL CONTRACTING AND FINANCIAL TRANSACTIONS.

(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Mem-

ber of Congress in connection with any Federal action described in paragraph (2) of this subsection.

(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

(A) The awarding of any Federal contract.

(B) The making of any Federal grant.

(C) The making of any Federal loan.

(D) The entering into of any cooperative agreement.

(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection—

(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

(B) copies of all declarations received by such person under paragraph (5).

(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain—

(A) a statement setting forth whether such person—

(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

(ii) has agreed to make any such payment;

(B) with respect to each such payment (if any) and each such agreement (if any)—

(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

(iii) the amount paid, to be paid, or reasonably expected to be paid;

(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

(3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain—

(A) a statement setting forth whether such person—

(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an em-

ployee of a Member of Congress in connection with that loan insurance or guaranty; or

(ii) has agreed to make any such payment; and

(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

(4) A person referred to in paragraph (1)(A) of this subsection shall file a declaration referred to in that paragraph—

(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;

(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and

(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

(6)(A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

(B) Notwithstanding subparagraph (A)—

(i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

(ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an Executive

order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and

(iii) information reported in accordance with this subparagraph shall not be available for public inspection.

(7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

(c)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(B) A filing of a declaration of a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

(2) The report of an agency under paragraph (1) of this subsection shall include the following:

(A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.

(B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

(e)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(C) Nothing in this paragraph shall be construed as permitting the use of appropriated funds for making any payment prohibited in or pursuant to any other provision of law.

(2) The reporting requirement in subsection (b) of this section shall not apply to any person with respect to—

(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater, includ-

ing a contract or subcontract to carry out any purpose for which such a loan is made.

(f) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

(h) As used in this section:

(1) The term "recipient", with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

(2) The term "agency" has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

(3) The term "person"—

(A) includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

(4) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(5) The term "local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

(A) A local public authority.

(B) A special district.

(C) An intrastate district.

(D) A council of governments.

(E) A sponsor group representative organization.

(F) Any other instrumentality of a local government.

(6)(A) The terms "Federal contract", "Federal grant", "Federal cooperative agreement" mean, respectively—

(i) a contract awarded by an agency;

(ii) a grant made by an agency or a direct appropriation made by law to any person; and

(iii) a cooperative agreement entered into by an agency.

(B) Such terms do not include—

(i) direct United States cash assistance to an individual;

(ii) a loan;

(iii) loan insurance; or

(iv) a loan guaranty.

(7) The term "Federal loan" means a loan made by an agency. Such term does not include loan insurance or a loan guaranty.

(8) The term "reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(9) The term "reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(10) The term "regularly employed" with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

(11) The terms "Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 1353. ACCEPTANCE OF TRAVEL AND RELATED EXPENSES FROM NON-FEDERAL SOURCES.

(a) Notwithstanding any other provision of law, the Administrator of General Services, in consultation with the Director of the Office of Government Ethics, shall prescribe by regulation the conditions under which an agency in the executive branch (including an independent agency) may accept payment, or authorize an employee of such agency to accept payment on the agency's behalf, from non-Federal sources for travel, subsistence, and related expenses with respect to attendance of the employee (or the spouse of such employee) at any meeting or similar function relating to the official duties of the employee. Any cash payment so accepted shall be credited to the appropriation applicable to such expenses. In the case of a payment in kind so accepted, a pro rata reduction shall be made in any entitlement of the employee to payment from the Government for such expenses.

(b) Except as provided in this section or section 4111 or 7342 of title 5, an agency or employee may not accept payment for ex-

penses referred to in subsection (a). An employee who accepts any payment in violation of the preceding sentence—

(1) may be required, in addition to any penalty provided by law, to repay, for deposit in the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and

(2) in the case of a repayment under paragraph (1), shall not be entitled to any payment from the Government for such expenses.

(c) As used in this section—

(1) the term "executive branch" means all executive agencies (as such term is defined in section 105 of title 5); and

(2) the term "employee in the executive branch" means—

(A) an appointed officer or employee in the executive branch; and

(B) an expert or consultant in the executive branch, under section 3109 of title 5; and

(3) the term "payment" means a payment or reimbursement, in cash or in kind.

(d)(1) The head of each agency of the executive branch shall, in the manner provided in paragraph (2), submit to the Director of the Office of Government Ethics reports of payments of more than $250 accepted under this section with respect to employees of the agency. The Director shall make such reports available for public inspection and copying.

(2) The reports required by paragraph (1) shall, with respect to each payment—

(A) specify the amount and method of payment, the name of the person making the payment, the name of the employee, the nature of the meeting or similar function, the time and place of travel, the nature of the expenses, and such other information as the Administrator of General Services may prescribe by regulation under subsection (a);

(B) be submitted not later than May 31 of each year with respect to payments in the preceding period beginning on October 1 and ending on March 31; and

(C) be submitted not later than November 30 of each year with respect to payments in the preceding period beginning on April 1 and ending on September 30.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
1344	41 C.F.R. 101–6
1352	7 C.F.R. 3018; 10 C.F.R. 601; 12 C.F.R. 411; 13 C.F.R. 146; 14 C.F.R. 1271; 15 C.F.R. 28; 18 C.F.R. 1315; 22 C.F.R. 138, 227, 311, 519, 712; 24 C.F.R. 87; 28 C.F.R. 69; 29 C.F.R. 93; 31 C.F.R. 21; 32 C.F.R. 28; 34 C.F.R. 82; 38 C.F.R. 45; 40 C.F.R. 34; 41 C.F.R.105–69; 43 C.F.R. 18; 45 C.F.R. 93, 604, 1158, 1168, 1230; 49 C.F.R. 20
1353	41 C.F.R. 301–1
1321	OMB: Circular A–34, see appendix IV
1322	OMB: Circular A–34, see appendix IV
1323	OMB: Circular A–34, see appendix IV
1324	OMB: Circular A–34, see appendix IV

TITLE 31—MONEY AND FINANCE

Subtitle II—the Budget Process

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CHAPTER 15—APPROPRIATION ACCOUNTING

SUBCHAPTER I—GENERAL

SEC. 1501. DOCUMENTARY EVIDENCE REQUIREMENT FOR GOVERNMENT OBLIGATIONS.

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

(A) when necessary because of a public exigency;

(B) for perishable subsistence supplies; or

(C) within specific monetary limits;

(5) a grant or subsidy payable—

(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

(B) under an agreement authorized by law; or

(C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

SEC. 1502. BALANCES AVAILABLE.

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

SEC. 1503. COMPTROLLER GENERAL REPORTS OF AMOUNTS FOR WHICH NO ACCOUNTING IS MADE.

The Comptroller General shall make a special report each year to Congress on recommendations for changes in laws, that the Comptroller General believes may be in the public interest, about amounts—

(1) for which no accounting is made to the Comptroller General; and

(2) that are in—

(A) accounts of the United States Government; or

(B) the custody of an officer or employee of the Government if the Government is financially concerned.

SUBCHAPTER II—APPORTIONMENT

SEC. 1511. DEFINITION AND APPLICATION.

(a) In this subchapter, "appropriations" means—

(1) appropriated amounts;

(2) funds; and

(3) authority to make obligations by contract before appropriations.

(b) This subchapter does not apply to—

(1) amounts (except amounts for administrative expenses) available—

(A) for price support and surplus removal of agricultural commodities; and

(B) under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c);

(2) a corporation getting amounts to make loans (except paid in capital amounts) without legal liability on the part of the United States Government; and

(3) the Senate, the House of Representatives, a committee of Congress, a member, officer, employee, or office of either House of Congress, or the Office of the Architect of the Capitol or an officer or employee of that Office.

SEC. 1512. APPORTIONMENT AND RESERVES.

(a) Except as provided in this subchapter, an appropriation available for obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for the period. An appropriation for an indefinite period and authority to

make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use. An apportionment may be reapportioned under this section.

(b)(1) An appropriation subject to apportionment is apportioned by—

(A) months, calendar quarters, operating seasons, or other time periods;

(B) activities, functions, projects, or objects; or

(C) a combination of the ways referred to in clauses (A) and (B) of this paragraph.

(2) The official designated in section 1513 of this title to make apportionments shall apportion an appropriation under paragraph (1) of this subsection as the official considers appropriate. Except as specified by the official, an amount apportioned is available for obligation under the terms of the appropriation on a cumulative basis unless reapportioned.

(c)(1) In apportioning or reapportioning an appropriation, a reserve may be established only—

(A) to provide for contingencies;

(B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(C) as specifically provided by law.

(2) A reserve established under this subsection may be changed as necessary to carry out the scope and objectives of the appropriation concerned. When an official designated in section 1513 of this title to make apportionments decides that an amount reserved will not be required to carry out the objectives and scope of the appropriation concerned, the official shall recommend the rescission of the amount in the way provided in chapter 11 of this title for appropriation requests. Reserves established under this section shall be reported to Congress as provided in the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

(d) An apportionment or a reapportionment shall be reviewed at least 4 times a year by the official designated in section 1513 of this title to make apportionments.

SEC. 1513. OFFICIALS CONTROLLING APPORTIONMENTS.

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government that is required to be apportioned under section 1512 of this title shall apportion the appropriation in writing. An appropriation shall be apportioned not later than the later of the following:

(1) 30 days before the beginning of the fiscal year for which the appropriation is available; or

(2) 30 days after the date of enactment of the law by which the appropriation is made available.

(b)(1) The President shall apportion in writing an appropriation available to an executive agency (except the Commission) that is required to be apportioned under section 1512 of this title. The head of each executive agency to which the appropriation is available shall submit to the President information required for the apportionment in the form and the way and at the time specified by

the President. The information shall be submitted not later than the later of the following:

(A) 40 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 15 days after the date of enactment of the law by which the appropriation is made available.

(2) The President shall notify the head of the executive agency of the action taken in apportioning the appropriation under paragraph (1) of this subsection not later than the later of the following:

(A) 20 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 30 days after the date of enactment of the law by which the appropriation is made available.

(c) By the first day of each fiscal year, the head of each executive department of the United States Government shall apportion among the major organizational units of the department the maximum amount to be expended by each unit during the fiscal year out of each contingent fund appropriated for the entire year for the department. Each amount may be changed during the fiscal year only by written direction of the head of the department. The direction shall state the reasons for the change.

(d) An appropriation apportioned under this subchapter may be divided and subdivided administratively within the limits of the apportionment.

(e) This section does not affect the initiation and operation of agricultural price support programs.

SEC. 1514. ADMINISTRATIVE DIVISION OF APPORTIONMENTS.

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government, and, subject to the approval of the President, the head of each executive agency (except the Commission) shall prescribe by regulation a system of administrative control not inconsistent with accounting procedures prescribed under law. The system shall be designed to—

(1) restrict obligations or expenditures from each appropriation to the amount of apportionments or reapportionments of the appropriation; and

(2) enable the official or the head of the executive agency to fix responsibility for an obligation or expenditure exceeding an apportionment or reapportionment.

(b) To have a simplified system for administratively dividing appropriations, the head of each executive agency (except the Commission) shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative division for each appropriation affecting the unit.

SEC. 1515. AUTHORIZED APPORTIONMENTS NECESSITATING DEFICIENCY OR SUPPLEMENTAL APPROPRIATIONS.

(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (includ-

ing prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.

(b)(1) Except as provided in subsection (a) of this section, an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of—

(A) a law enacted after submission to Congress of the estimates for an appropriation that requires an expenditure beyond administrative control; or

(B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.

(2) If an official making an apportionment decides that an apportionment would indicate a necessity for a deficiency or supplemental appropriation, the official shall submit immediately a detailed report of the facts to Congress. The report shall be referred to in submitting a proposed deficiency or supplemental appropriation.

SEC. 1516. EXEMPTIONS.

An official designated in section 1513 of this title to make apportionments may exempt from apportionment—

(1) a trust fund or working fund if an expenditure from the fund has no significant effect on the financial operations of the United States Government;

(2) a working capital fund or a revolving fund established for intragovernmental operations;

(3) receipts from industrial and power operations available under law; and

(4) appropriations made specifically for—

(A) interest on, or retirement of, the public debt;

(B) payment of claims, judgments, refunds, and drawbacks;

(C) items the President decides are of a confidential nature;

(D) payment under a law requiring payment of the total amount of the appropriation to a designated payee; and

(E) grants to the States under the Social Security Act (42 U.S.C. 301 et seq.).

SEC. 1517. PROHIBITED OBLIGATIONS AND EXPENDITURES.

(a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding—

(1) an apportionment; or

(2) the amount permitted by regulations prescribed under section 1514(a) of this title.

(b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section,

the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

SEC. 1518. ADVERSE PERSONNEL ACTIONS.

An officer or employee of the United States Government or of the District of Columbia government violating section 1517(a) of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

SEC. 1519. CRIMINAL PENALTY.

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1517(a) of this title shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

SUBCHAPTER III—TRANSFERS AND REIMBURSEMENTS

SEC. 1531. TRANSFERS OF FUNCTIONS AND ACTIVITIES.

(a) The balance of an appropriation available and necessary to finance or discharge a function or activity transferred or assigned under law within an executive agency or from one executive agency to another may be transferred to and used—

(1) by the organizational unit or agency to which the function or activity was transferred or assigned; and

(2) for a purpose for which the appropriation was originally available.

(b) The head of the executive agency determines the amount that, with the approval of the President, is necessary to be transferred when the transfer or assignment of the function or activity is within the agency. The President determines the amount necessary to be transferred when the transfer or assignment of the function or activity is from one executive agency to another.

(c) A balance transferred under this section is—

(1) credited to an applicable existing or new appropriation account;

(2) merged with the amount in an account to which the balance is credited; and

(3) with the amount with which the balance is merged, accounted for as one amount.

(d) New appropriation accounts may be established to carry out subsection (c)(1) of this section.

SEC. 1532. WITHDRAWAL AND CREDIT.

An amount available under law may be withdrawn from one appropriation account and credited to another or to a working fund only when authorized by law. Except as specifically provided by law, an amount authorized to be withdrawn and credited is available for the same purpose and subject to the same limitations provided by the law appropriating the amount. A withdrawal and credit is made by check and without a warrant.

SEC. 1533. TRANSFERS OF APPROPRIATIONS FOR SALARIES AND EXPENSES TO CARRY OUT NATIONAL DEFENSE RESPONSIBILITIES.

An appropriation of an executive agency for salaries and expenses is available to carry out national defense responsibilities assigned to the agency under law. A transfer necessary to carry out this section may be made between appropriations or allocations within the executive agency. An allocation may not be made to an executive agency that can carry out with its regular personnel a defense activity assigned to it by using the authority of this section to realign its regular programs.

SEC. 1534. ADJUSTMENTS BETWEEN APPROPRIATIONS.

(a) An appropriation available to an agency may be charged at any time during a fiscal year for the benefit of another appropriation available to the agency to pay costs—

(1) when amounts are available in both the appropriation to be charged and the appropriation to be benefited; and

(2) subject to limitations applicable to the appropriations.

(b) Amounts paid under this section are charged on a final basis during, or as of the close of, the fiscal year to the appropriation benefited. The appropriation charged under subsection (a) of this section shall be appropriately credited.

SEC. 1535. AGENCY AGREEMENTS.

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—

(1) amounts are available;

(2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;

(3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and

(4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

(b) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(c) A condition or limitation applicable to amounts for procurement of an agency or unit placing an order or making a contract under this section applies to the placing of the order or the making of the contract.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not—

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds.

NOTE

Economy Act Purchases

Pub.L. 103–355, Title I, Sec. 1074, Oct. 13, 1994, 108 Stat. 3271, provided that:

"(a) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be revised to include regulations governing the exercise of the authority under section 1535 of title 31, United States Code [this section], for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

"(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

"(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the ordering agency with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

"(2) provide that such a purchase of goods or services may be made only if—

"(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

"(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

"(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies;

"(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the senior procurement official responsible for purchasing by the ordering agency; and

"(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and administering the contract or other agreement under which the order is filled.

"(c) MONITORING SYSTEM REQUIRED.—The Administrator for Federal Procurement Policy shall ensure that, not later than one year after the date of the enactment of this Act [Oct. 13, 1994], systems for collecting and evaluating procurement data are capable of col-

lecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

"(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect." [Note effective Oct. 13, 1994, except as otherwise provided, see section 10001 of Pub.L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.]

Department of Defense Purchases Through Other Agencies

Pub.L. 103–160, Div. A, Title VIII, Sec. 844, Nov. 30, 1993, 107 Stat. 1720, provided that:

"(a) REGULATIONS REQUIRED.—Not later than six months after the date of the enactment of this Act [Nov. 30, 1993], the Secretary of Defense shall prescribe regulations governing the exercise by the Department of Defense of the authority under section 1535 of title 31, United States Code [this section], to purchase goods and services under contracts entered into or administered by another agency.

"(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

"(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the Department of Defense with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

"(2) provide that such a purchase of goods or services may be made only if—

"(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

"(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the Department;

"(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies; or

"(D) the purchase is authorized by an Executive order or a revision to the Federal Acquisition Regulation setting forth specific additional circumstances in which purchases referred to in subsection (a) are authorized;

"(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code [section 2301 et seq. of Title 10, Armed Forces], or title III of the Federal Property and Administrative Services Act of 1949 [section 251 et seq. of Title 41, Public Contracts] and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the Senior Acquisition Executive responsible for purchasing by the ordering agency or unit; and

"(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and admin-

istering the contract or other agreement under which the order is filled.

"(c) MONITORING SYSTEM REQUIRED.—The Secretary of Defense shall ensure that, not later than one year after the date of the enactment of this Act [Nov. 30, 1993], systems of the Department of Defense for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

"(d) TERMINATION.—This section [this note] shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect."

Acquisition of Goods, Services, or Space by Secretary of Senate and Sergeant at Arms and Doorkeeper of the Senate

Pub.L. 101–163, Title I, Sec. 8, Nov. 21, 1989, 103 Stat. 1046, provided that:

"(1) The Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to acquire goods, services, or space from government agencies and units by agreement under the provisions of the Economy Act, 31 U.S.C. 1535, and to make advance payments in conjunction therewith, if required by the providing agency or establishment.

"(2) No advance payment may be made under paragraph (1) unless specifically provided for in the agreement. No agreement providing for advance payment may be entered into unless it contains a provision requiring the refund of any unobligated balance of the advance.

"(3) No agreement may be entered into under paragraph (1) without the approval of the Senate Committee on Rules and Administration and the Senate Committee on Appropriations."

SEC. 1536. CREDITING PAYMENTS FROM PURCHASES BETWEEN EXECUTIVE AGENCIES.

(a) An advance payment made on an order under section 1535 of this title is credited to a special working fund that the Secretary of the Treasury considers necessary to be established. Except as provided in this section, any other payment is credited to the appropriation or fund against which charges were made to fill the order.

(b) An amount paid under section 1535 of this title may be expended in providing goods or services or for a purpose specified for the appropriation or fund credited. Where goods are provided from stocks on hand, the amount received in payment is credited so as to be available to replace the goods unless—

(1) another law authorizes the amount to be credited to some other appropriation or fund; or

(2) the head of the executive agency filling the order decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

(c) This section does not affect other laws about working funds.

SEC. 1537. SERVICES BETWEEN THE UNITED STATES GOVERNMENT AND THE DISTRICT OF COLUMBIA GOVERNMENT.

(a) To prevent duplication and to promote efficiency and economy, an officer or employee of—

(1) the United States Government may provide services to the District of Columbia government; and

(2) the District of Columbia government may provide services to the United States Government.

(b)(1) Services under this section shall be provided under an agreement—

(A) negotiated by officers and employees of the two governments; and

(B) approved by the Director of the Office of Management and Budget and the Mayor of the District of Columbia.

(2) Each agreement shall provide that the cost of providing the services shall be borne in the way provided in subsection (c) of this section by the government to which the services are provided at rates or charges based on the actual cost of providing the services.

(3) To carry out an agreement made under this subsection, the agreement may provide for the delegation of duties and powers of officers and employees of—

(A) the District of Columbia government to officers and employees of the United States Government; and

(B) the United States Government to officers and employees of the District of Columbia government.

(c) In providing services under an agreement made under subsection (b) of this section—

(1) costs incurred by the United States Government may be paid from appropriations available to the District of Columbia government officer or employee to whom the services were provided; and

(2) costs incurred by the District of Columbia government may be paid from amounts available to the United States Government officer or employee to whom the services were provided.

(d) When requested by the Director of the United States Secret Service, the Chief of the Metropolitan Police shall assist the Secret Service and the Executive Protective Service on a non-reimbursable basis in carrying out their protective duties under section 302 of title 3 and section 3056 of title 18.

SUBCHAPTER IV—CLOSING ACCOUNTS

SEC. 1551. DEFINITIONS; APPLICABILITY OF SUBCHAPTER.

(a) In this subchapter—

(1) An obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

(2) An unobligated balance is the difference between the obligated balance and the total unexpended balance.

(3) A fixed appropriation account is an appropriation account available for obligation for a definite period.

(b) The limitations on the availability for expenditure prescribed in this subchapter apply to all appropriations unless specifically otherwise authorized by a law that specifically—

(1) identifies the appropriate account for which the availability for expenditure is to be extended;

(2) provides that such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to that account; and

(3) extends the availability for expenditure of the obligated balances.

(c) This subchapter does not apply to—

(1) appropriations for the District of Columbia government; or

(2) appropriations to be disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

SEC. 1552. PROCEDURE FOR APPROPRIATION ACCOUNTS AVAILABLE FOR DEFINITE PERIODS.

(a) On September 30th of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

(b) Collections authorized or required to be credited to an appropriation account, but not received before closing of the account under subsection (a) or under section 1555 of this title shall be deposited in the Treasury as miscellaneous receipts.

SEC. 1553. AVAILABILITY OF APPROPRIATION ACCOUNTS TO PAY OBLIGATIONS.

(a) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

(2) The total amount of charges to an account under paragraph (1) may not exceed an amount equal to 1 percent of the total appropriations for that account.

(c)(1) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount of obligations from that appropriation during a fiscal year for contract changes for that program, project, or activity to exceed $4,000,000, the obligation may only be made if the obligation is approved by the head of the agency (or an officer of the agency within the Office of the head of the agency

to whom the head of the agency has delegated the authority to approve such an obligation).

(2) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount obligated from that appropriation during a fiscal year for that program, project, or activity to exceed $25,000,000, the obligation may not be made until—

(A) the head of the agency submits to the appropriate authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives a notice in writing of the intent to obligate such funds, together with a description of the legal basis for the proposed obligation and the policy reasons for the proposed obligation; and

(B) a period of 30 days has elapsed after the notice is submitted.

(3) In this subsection, the term "contract change" means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under an escalation clause.

(d)(1) Obligations under this section may be paid without prior action of the Comptroller General.

(2) This subchapter does not—

(A) relieve the Comptroller General of the duty to make decisions requested under law; or

(B) affect the authority of the Comptroller General to settle claims and accounts.

SEC. 1554. AUDIT, CONTROL, AND REPORTING.

(a) Any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability for obligation of that account.

(b)(1) After the close of each fiscal year, the head of each agency shall submit to the President and the Secretary of the Treasury a report regarding the unliquidated obligations, unobligated balances, canceled balances, and adjustments made to appropriation accounts of that agency during the completed fiscal year. The report shall be submitted no later than 15 days after the date on which the President's budget for the next fiscal year is submitted to Congress under section 1105 of this title.

(2) Each report required by this subsection shall—

(A) provide a description, with reference to the fiscal year of appropriations, of the amount in each account, its source, and an itemization of the appropriations accounts;

(B) describe all current and expired appropriations accounts;

(C) describe any payments made under section 1553 of this title;

(D) describe any adjustment of obligations during that fiscal year pursuant to section 1553 of this title;

(E) contain a certification by the head of the agency that the obligated balances in each appropriation account of the agency reflect proper existing obligations and that expenditures from

the account since the preceding review were supported by a proper obligation of funds and otherwise were proper;

(F) describe all balances canceled under sections 1552 and 1555 of this title.

(3) The head of each Federal agency shall provide a copy of each such report to the Speaker of the House of Representatives and the Committee on Appropriations, the Committee on Governmental Affairs, and other appropriate oversight and authorizing committees of the Senate.

(c) The head of each agency shall establish internal controls to assure that an adequate review of obligated balances is performed to support the certification required by section 1108(c) of this title.

SEC. 1555. CLOSING OF APPROPRIATION ACCOUNTS AVAILABLE FOR INDEFINITE PERIODS.

An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if—

(1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and

(2) no disbursement has been made against the appropriation for two consecutive fiscal years.

SEC. 1556. COMPTROLLER GENERAL: REPORTS ON APPROPRIATION ACCOUNTS.

(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

(1) the head of the agency concerned;

(2) the Secretary of the Treasury; and

(3) the President.

(b) A report under this section shall include an appraisal of unpaid obligations under fixed appropriation accounts for which the period of availability for obligation has ended.

SEC. 1557. AUTHORITY FOR EXEMPTIONS IN APPROPRIATION LAWS.

A provision of an appropriation law may exempt an appropriation from the provisions of this subchapter and fix the period for which the appropriation remains available for expenditure.

SEC. 1558. AVAILABILITY OF FUNDS FOLLOWING RESOLUTION OF A PROTEST.

(a) Notwithstanding section 1552 of this title or any other provision of law, funds available to an agency for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such an appeal or request, whichever is later.

(b) Subsection (a) applies with respect to any protest filed under subchapter V of chapter 35 of this title or under section 111(f) of

the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
1514	38 C.F.R. 1
1535	32 C.F.R. 728; 48 C.F.R. 2417
	TFM, Volume 1, Part 2, Chapter 2500, see appendix V
	TFM, Volume 1, Part 6, Chapter 8000, see appendix V
1536	TFM, Volume 1, Part 2, Chapter 2500, see appendix V
1511	OMB: Circular A–34, see appendix IV
1512	OMB: Circular A–34, see appendix IV
1513	OMB: Circular A–34, see appendix IV
1514	OMB: Circular A–34, see appendix IV
1515	OMB: Circular A–34, see appendix IV
1516	OMB: Circular A–34, see appendix IV
1517	OMB: Circular A–34, see appendix IV
1518	OMB: Circular A–34, see appendix IV
1519	OMB: Circular A–34, see appendix IV
1551	OMB: Circular A–34, see appendix IV
1552	OMB: Circular A–34, see appendix IV
1553	OMB: Circular A–34, see appendix IV
1554	OMB: Circular A–34, see appendix IV
1555	OMB: Circular A–34, see appendix IV
1556	OMB: Circular A–34, see appendix IV
1557	OMB: Circular A–34, see appendix IV

TITLE 31—MONEY AND FINANCE

Subtitle III—Financial Management

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CHAPTER 31—PUBLIC DEBT

SUBCHAPTER I—BORROWING AUTHORITY

SEC. 3101. PUBLIC DEBT LIMIT.

(a) In this section, the current redemption value of an obligation issued on a discount basis and redeemable before maturity at the option of its holder is deemed to be the face amount of the obligation.

(b) The face amount of obligations issued under this chapter and the face amount of obligations whose principal and interest are guaranteed by the United States Government (except guaranteed obligations held by the Secretary of the Treasury) may not be more than $4,900,000,000,000, outstanding at one time, subject to changes periodically made in that amount as provided by law through the congressional budget process described in Rule XLIX of the Rules of the House of Representatives or otherwise.

(c) For purposes of this section, the face amount, for any month, of any obligation issued on a discount basis that is not redeemable before maturity at the option of the holder of the obligation is an amount equal to the sum of—

(1) the original issue price of the obligation, plus

(2) the portion of the discount on the obligation attributable to periods before the beginning of such month (as determined under the principles of section 1272(a) of the Internal Revenue Code of 1986 without regard to any exceptions contained in paragraph (2) of such section).

SEC. 3102. BONDS.

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue bonds of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may issue bonds authorized by this section to the public and to Government accounts at any annual interest rate and prescribe conditions under section 3121 of this title.

(b) The Secretary shall offer the bonds authorized under this section first as a popular loan under regulations of the Secretary that allow the people of the United States as nearly as possible an equal opportunity to participate in subscribing to the offered bonds. However, the bonds may be offered in a way other than as a popular

loan when the Secretary decides the other way is in the public interest.

(c)(1) When the Secretary decides it is in the public interest in making a bond offering under this section, the Secretary may—

(A) make full allotments on receiving applications for smaller amounts of bonds to subscribers applying before the closing date the Secretary sets for filing applications;

(B) reject or reduce allotments on receiving applications filed after the closing date or for larger amounts;

(C) reject or reduce allotments on receiving applications from incorporated banks and trust companies for their own account and make full allotments or increase allotments to other subscribers; and

(D) prescribe a graduated scale of allotments.

(2) The Secretary shall prescribe regulations applying to all popular loan subscribers similarly situated governing a reduction or increase of an allotment under paragraph (1) of this subsection.

(d) The Secretary may make special arrangements for subscriptions from members of the armed forces. However, bonds issued to those members must be the same as other bonds of the same issue.

(e) The Secretary may dispose of any part of a bond offering not taken and may prescribe the price and way of disposition.

SEC. 3103. NOTES.

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue notes of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may prescribe conditions under section 3121 of this title. Notwithstanding section 3121(a)(5) of this title, the payment date of each series of notes issued shall be at least one year but not more than 10 years from the date of issue.

(b) The Government may redeem any part of a series of notes before maturity by giving at least 4 months' notice but not more than one year's notice.

(c) The holder of a note of one series issued under this section with the same issue date as another series of notes issued under this section may convert, at par value, a note of the holder for a note of the other series.

SEC. 3104. CERTIFICATES OF INDEBTEDNESS AND TREASURY BILLS.

(a) The Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may buy, redeem, and make refunds under section 3111 of this title. For amounts borrowed, the Secretary may issue—

(1) certificates of indebtedness of the Government; and

(2) Treasury bills of the Government.

(b) The Secretary may prescribe conditions for issuing certificates of indebtedness and Treasury bills under section 3121 of this title and conditions under which the certificates and bills may be redeemed before maturity. Notwithstanding section 3121(a)(5) of this title, the payment date of certificates of indebtedness and Treasury bills may not be more than one year after the date of issue.

(c) Treasury bills issued under this section may not be accepted before maturity to pay principal or interest on obligations of governments of foreign countries that are held by the United States Government.

SEC. 3105. SAVINGS BONDS AND SAVINGS CERTIFICATES.

(a) With the approval of the President, the Secretary of the Treasury may issue savings bonds and savings certificates of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. Proceeds from the bonds and certificates shall be used for expenditures authorized by law. Savings bonds and certificates may be issued on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis. Savings bonds shall mature not more than 20 years from the date of issue. Savings certificates shall mature not more than 10 years from the date of issue. The difference between the price paid and the amount received on redeeming a savings bond or certificate is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b)(1) The Secretary may—

(A) fix the investment yield for savings bonds; and

(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

(2) The Secretary may prescribe regulations providing that—

(A) owners of savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

(B) savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1).

(c) The Secretary may prescribe for savings bonds and savings certificates issued under this section—

(1) the form and amount of an issue and series;

(2) the way in which they will be issued;

(3) the conditions, including restrictions on transfer, to which they will be subject;

(4) conditions governing their redemption;

(5) their sales price and denominations;

(6) a way to evidence payments for or on account of them and to provide for the exchange of savings certificates for savings bonds; and

(7) the maximum amount issued in a year that may be held by one person.

(d) The Secretary may authorize financial institutions to make payments to redeem savings bonds and savings notes. A financial institution may be a paying agent only if the institution—

(1) is incorporated under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States;

(2) in the usual course of business accepts, subject to withdrawal, money for deposit or the purchase of shares;

(3) is under the supervision of a banking authority of the jurisdiction in which it is incorporated;

(4) has a regular office to do business; and

(5) is qualified under regulations prescribed by the Secretary in carrying out this subsection.

(e)(1) The Secretary may prescribe a way in which a check issued to an individual (except a trust or estate) as a refund for taxes imposed under subtitle A of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) may become a series E savings bond. However, a check may become a bond only if the claim for a refund is filed by the last day prescribed by law for filing the return (determined without any extensions) for the taxable year for which the refund is made. The Secretary may prescribe the time and way in which the check becomes a bond.

(2) A bond issued under this subsection is deemed to be a series E bond issued under this section, except that the bond shall bear an issue date of the first day of the first month beginning after the close of the taxable year for which the bond is issued. The Secretary also may provide that a bond issued to joint payees may be redeemed by either payee alone.

SEC. 3106. RETIREMENT AND SAVINGS BONDS.

(a) With the approval of the President, the Secretary of the Treasury may issue retirement and savings bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds from the bonds shall be used for expenditures authorized by law. Retirement and savings bonds may be issued only on a discount basis. The maturity period of the bonds shall be at least 10 years from the date of issue but not more than 30 years from the date of issue. The difference between the price paid and the amount received on redeeming a bond is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b) With the approval of the President, the Secretary may allow owners of retirement and savings bonds to keep the bonds after maturity and continue to earn interest on them at rates that are consistent with the rate of investment yield provided by retirement and savings bonds.

(c) Section 3105(c)(1)–(5) of this title applies to this section. Sections 3105(c)(6) and (d) and 3126 of this title apply to this section to the extent consistent with this section. The Secretary may prescribe the maximum amount of retirement and savings bonds issued under this section in a year that may be held by one person. However, the maximum amount shall be at least $3,000.

SEC. 3107. INCREASING INTEREST RATES AND INVESTMENT YIELDS ON RETIREMENT BONDS.

With the approval of the President, the Secretary of the Treasury may increase by regulation the interest rate or investment yield on an offering of bonds issued under this chapter that are described in sections 405(b) and 409(a) of the Internal Revenue Code of 1954 (26 U.S.C. 405(b), 409(a)), as in effect before the enactment of the Tax Reform Act of 1984. The increased yield shall be for interest accrual periods specified in the regulations so that the interest rate or investment yield on the bonds for those periods is consistent

with the interest rate or investment yield on a new offering of those bonds.

SEC. 3108. PROHIBITION AGAINST CIRCULATION PRIVILEGE.

An obligation issued under sections 3102–3104(a)(1) and 3105–3107 of this title may not bear the circulation privilege.

SEC. 3109. TAX AND LOSS BONDS.

(a) The Secretary of the Treasury may issue tax and loss bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds of the tax and loss bonds shall be used for expenditures authorized by law. Tax and loss bonds are nontransferrable except as provided by the Secretary, bear no interest, and shall be issued in amounts needed to allow persons to comply with section 832(e) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)). The Secretary may prescribe the amount of tax and loss bonds and the conditions under which the bonds will be issued as required by section 832(e).

(b) For a taxable year in which amounts are deducted from the mortgage guaranty account referred to in section 832(e)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(3)), an amount of tax and loss bonds bought under section 832(e)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(2)) shall be redeemed for the amount deducted from the account. The amount redeemed shall be applied as necessary to pay taxes due because of the inclusion under section 832(b)(1)(E) of the Internal Revenue Code of 1954 (26 U.S.C. 832(b)(1)(E)) of amounts in gross income. The Secretary also may prescribe additional ways to redeem the bonds.

SEC. 3110. SALE OF OBLIGATIONS OF GOVERNMENTS OF FOREIGN COUNTRIES.

(a) With the approval of the President, the Secretary of the Treasury may sell obligations of the government of a foreign country when the obligations were acquired under—

(1) the First Liberty Bond Act and matured before June 16, 1947;

(2) the Second Liberty Bond Act and matured before October 16, 1938; or

(3) section 7(a) of the Victory Liberty Loan Act.

(b) The Secretary may prescribe the conditions and frequency for receiving payment under obligations of a government of a foreign country acquired under the laws referred to in subsection (a) of this section. A sale of an obligation acquired under those Acts shall at least equal the purchase price and accrued interest. The proceeds of obligations sold under this section and payments received from governments on the principal of their obligations shall be used to redeem or buy (for not more than par value and accrued interest) bonds of the United States Government issued under this chapter. If those bonds cannot be redeemed or bought, the Secretary shall redeem or buy other outstanding interest-bearing obligations of the Government that are subject to redemption or which can be bought at not more than par value and accrued interest.

SEC. 3111. NEW ISSUE USED TO BUY, REDEEM, OR REFUND OUTSTANDING OBLIGATIONS.

An obligation may be issued under this chapter to buy, redeem, or refund, at or before maturity, outstanding bonds, notes, certifi-

cates of indebtedness, Treasury bills, or savings certificates of the United States Government. Under regulations of the Secretary of the Treasury, money received from the sale of an obligation and other money in the general fund of the Treasury may be used in making the purchases, redemptions, or refunds.

SEC. 3112. SINKING FUND FOR RETIRING AND CANCELLING BONDS AND NOTES.

(a) The Department of the Treasury has a sinking fund for retiring bonds and notes issued under this chapter. Amounts in the fund are appropriated for payment of bonds and notes at maturity or for their redemption or purchase before maturity by the Secretary of the Treasury. The fund is available until all the bonds and notes are retired.

(b) For each fiscal year, an amount is appropriated equal to—

(1) the interest that would have been payable during the fiscal year for which the appropriation is made on the bonds and notes bought, redeemed, or paid out of the fund during that or prior years;

(2) 2.5 percent of the total amount of bonds and notes issued under the First Liberty Bond Act, the Second Liberty Bond Act, the Third Liberty Bond Act, the Fourth Liberty Bond Act, and the Victory Liberty Loan Act and outstanding on July 1, 1920, less an amount equal to the par amount of obligations of governments of foreign countries that the United States Government held on July 1, 1920; and

(3) 2.5 percent of the total amount expended after June 29, 1933, from appropriations made or authorized in sections 301 and 302 of the Emergency Relief and Construction Act of 1932.

(c) The Secretary may prescribe the price and conditions for paying, redeeming, and buying bonds and notes under this section. The average cost of bonds and notes bought under this section may not be more than par value and accrued interest. Bonds and notes bought, redeemed, or paid out of the sinking fund must be canceled and retired and may not be reissued.

SEC. 3113. ACCEPTING GIFTS.

(a) To provide the people of the United States with an opportunity to make gifts to the United States Government to be used to reduce the public debt—

(1) the Secretary of the Treasury may accept for the Government a gift of—

(A) money made only on the condition that it be used to reduce the public debt;

(B) an obligation of the Government included in the public debt made only on the condition that the obligation be canceled and retired and not reissued; and

(C) other intangible personal property made only on the condition that the property is sold and the proceeds from the sale used to reduce the public debt; and

(2) the Administrator of General Services may accept for the Government a gift of tangible property made only on the condition that it be sold and the proceeds from the sale be used to reduce the public debt.

(b) The Secretary and the Administrator each may reject a gift under this section when the rejection is in the interest of the Government.

(c) The Secretary and the Administrator shall convert a gift either of them accepts under subsection (a)(1)(C) or (2) of this section to money on the best terms available. If a gift accepted under subsection (a) of this section is subject to a gift or inheritance tax, the Secretary or the Administrator may pay the tax out of the proceeds of the gift or the proceeds of the redemption or sale of the gift.

(d) The Treasury has an account into which money received as gifts and proceeds from the sale or redemption of gifts under this section shall be deposited. The Secretary shall use the money in the account to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt. An obligation of the Government that is paid, redeemed, or bought with money from the account shall be canceled and retired and may not be reissued. Money deposited in the account is appropriated and may be expended to carry out this section.

(e)(1) The Secretary shall redeem a direct obligation of the Government bearing interest or sold on a discount basis on receiving it when the obligation—

(A) is given to the Government;

(B) becomes the property of the Government under the conditions of a trust; or

(C) is payable on the death of the owner to the Government (or to an officer of the Government in the officer's official capacity).

(2) If the gift or transfer to the Government is subject to a gift or inheritance tax, the Secretary shall pay the tax out of the proceeds of redemption.

SUBCHAPTER II—ADMINISTRATIVE

SEC. 3121. PROCEDURE.

(a) In issuing obligations under sections 3102–3104 of this title, the Secretary of the Treasury may prescribe—

(1) whether an obligation is to be issued on an interest-bearing basis, a discount basis, or an interest-bearing and discount basis;

(2) regulations on the conditions under which the obligation will be offered for sale, including whether it will be offered for sale on a competitive or other basis;

(3) the offering price and interest rate;

(4) the method of computing the interest rate;

(5) the dates for paying principal and interest;

(6) the form and denominations of the obligations; and

(7) other conditions.

(b)(1) Under conditions prescribed by the Secretary, an obligation issued under this chapter and redeemable on demand of the owner or holder may be used to pay the United States Government for taxes imposed by it.

(2) An obligation of the Government issued after March 3, 1971, under law may not be redeemed before its maturity to pay a tax imposed by the Government in an amount more than the fair mar-

ket value of the obligation at the time of its redemption. This paragraph does not apply to a Treasury bill issued under section 3104 of this title.

(c) Under conditions prescribed by the Secretary, an obligation authorized by this chapter may be issued in exchange for an obligation of an agency whose principal and interest are unconditionally guaranteed by the Government at or before maturity.

(d) Under conditions prescribed by the Secretary, the Secretary may issue registered bonds in exchange for and instead of coupon bonds that have been or may be issued. The registered bonds shall be similar in all respects to the registered bonds issued under a law authorizing the issue of coupon bonds offered for exchange.

(e) A decision of the Secretary about an issue of obligations under sections 3102–3104 of this title is final.

(f) The Secretary may accept voluntary services in carrying out the sale of public debt obligations.

(g)(1) In this subsection, "registration-required obligation" means an obligation except an obligation—

(A) not of a type offered to the public;

(B) having a maturity (at issue) of not more than one year; or

(C) described in paragraph (2) of this subsection.

(2) An obligation is not a registration-required obligation if—

(A) there are arrangements reasonably designed to ensure that the obligation will be sold (or resold in connection with the original issue) only to a person that is not a United States person; and

(B) for an obligation not in registered form—

(i) interest on the obligation is payable only outside the United States and its territories and possessions; and

(ii) a statement is on the face of the obligation that a United States person holding the obligation is subject to limitations under the United States income tax laws.

(3) Every registration-required obligation of the Government shall be in registered form. A book entry obligation is deemed to be in registered form if the right to principal and stated interest on the obligation may be transferred only through a book entry consistent with regulations of the Secretary.

(4) The Secretary shall prescribe regulations necessary to carry out this subsection when there is a nominee.

(h)(1) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations issued under this chapter, and obligations otherwise issued or guaranteed as to principal or interest by the United States. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

(2) Violation of a regulation prescribed under paragraph (1) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section

5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, section 407(e) or 407(f) of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration Board.

(3) Nothing in this subsection shall be construed to affect in any way the powers of such agencies under any other provision of law.

(4) The Secretary shall, prior to adopting regulations under this subsection, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this subsection, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this subsection.

(5) As used in this subsection—

(A) "depository institution" has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

(B) "government securities broker" has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

(C) "government securities dealer" has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

(D) "appropriate regulatory agency" has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934.

SEC. 3122. BANKS AND TRUST COMPANIES AS DEPOSITARIES.

(a) The Secretary of the Treasury may designate incorporated banks and trust companies as depositaries for any part of proceeds of an obligation issued under this chapter. The Secretary may prescribe the conditions under which deposits may be made under this section, including the interest rate on amounts deposited and security requirements.

(b) The Secretary may designate a bank or trust company that is a depositary under subsection (a) of this section as a fiscal agent of the United States Government in selling and delivering bonds and certificates of indebtedness issued by the Government.

SEC. 3123. PAYMENT OF OBLIGATIONS AND INTEREST ON THE PUBLIC DEBT.

(a) The faith of the United States Government is pledged to pay, in legal tender, principal and interest on the obligations of the Government issued under this chapter.

(b) The Secretary of the Treasury shall pay interest due or accrued on the public debt. As the Secretary considers expedient, the Secretary may pay in advance interest on the public debt by a period of not more than one year, with or without a rebate of interest on the coupons.

(c)(1) The Secretary may issue a bond, note, or certificate of indebtedness authorized under this chapter whose principal and interest are payable in a foreign currency stated in the bond, note, or certificate. The Secretary may dispose of the bonds, notes, and certificates at a price that is at least par value without complying with section 3102(b)–(d) of this title.

(2) In determining the dollar amount of bonds, notes, and certificates of indebtedness that may be issued under this chapter, the dollar equivalent of the amount of bonds, notes, and certificates payable in a foreign currency is determined by the par of the exchange value on the date of issue of the bonds, notes, or certificates as published by the Secretary under section 5151 of this title.

(3) The Secretary may designate depositaries in foreign countries in which any part of the proceeds of bonds, notes, or certificates of indebtedness payable in the foreign currency may be deposited.

SEC. 3124. EXEMPTION FROM TAXATION.

(a) Stocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State. The exemption applies to each form of taxation that would require the obligation, the interest on the obligation, or both, to be considered in computing a tax, except—

(1) a nondiscriminatory franchise tax or another nonproperty tax instead of a franchise tax, imposed on a corporation; and

(2) an estate or inheritance tax.

(b) The tax status of interest on obligations and dividends, earnings, or other income from evidences of ownership issued by the Government or an agency and the tax treatment of gain and loss from the disposition of those obligations and evidences of ownership is decided under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.). An obligation that the Federal Housing Administration had agreed, under a contract made before March 1, 1941, to issue at a future date, has the tax exemption privileges provided by the authorizing law at the time of the contract. This subsection does not apply to obligations and evidences of ownership issued by the District of Columbia, a territory or possession of the United States, or a department, agency, instrumentality, or political subdivision of the District, territory, or possession.

SEC. 3125. RELIEF FOR LOST, STOLEN, DESTROYED, MUTILATED, OR DEFACED OBLIGATIONS.

(a) In this section, "obligation" means a direct obligation of the United States Government issued under law for valuable consideration, including bonds, notes, certificates of indebtedness, Treasury bills, and interim certificates issued for an obligation.

(b) The Secretary of the Treasury may provide relief for the loss, theft, destruction, mutilation, or defacement of an obligation identified by number and description.

(c)(1) An indemnity bond is required as a condition of relief if the obligation is payable to bearer or assigned so as to become payable to bearer and is not proven clearly to have been destroyed. The Secretary may prescribe for the indemnity bond the form, amount, and surety or security requirements.

(2) Relief for interest coupons claimed to have been attached to an obligation may be provided only if the Secretary is satisfied that

the coupons have not been paid and are destroyed or will not become the basis of a valid claim against the Government.

SEC. 3126. LOSSES AND RELIEF FROM LIABILITY RELATED TO REDEEMING SAVINGS BONDS AND NOTES.

(a) Under regulations prescribed by the Secretary of the Treasury, a loss resulting from a payment related to redeeming a savings bond or savings note shall be replaced out of the fund established by section 2 of the Government Losses in Shipment Act (40 U.S.C. 722). A Federal reserve bank, a paying agent allowed to make payments in redeeming a bond or note, or an officer or employee of the Department of the Treasury is relieved from liability to the United States Government for the loss when the Secretary decides that the loss did not result from the fault or negligence of the bank, paying agent, officer, or employee. The Secretary shall relieve the bank, agent, officer, or employee from liability when the Secretary decides that written notice of liability or potential liability has not been given to the bank, agent, officer, or employee by the Government within 10 years from the date of the erroneous payment. However, the Secretary may not relieve a paying agent of an assumed unconditional liability to the Government.

(b) Section 3 of the Government Losses in Shipment Act (40 U.S.C. 723) (related to finality of decisions of the Secretary) applies to a decision of the Secretary made under this section. A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.

SEC. 3127. CREDIT TO OFFICERS, EMPLOYEES, AND AGENTS FOR STOLEN TREASURY NOTES.

When an officer, employee, or agent of the United States Government authorized to receive, redeem, or cancel Treasury notes receives or pays a note that was stolen and put in circulation after it had been received or redeemed by an officer, employee, or agent authorized to receive or redeem the note, the Secretary of the Treasury may allow the officer, employee, or agent receiving or paying the stolen note a credit for the amount of the note. The Secretary may allow the credit only if the Secretary is satisfied that the note was received or paid in good faith and in exercising ordinary prudence.

SEC. 3128. PROOF OF DEATH TO SUPPORT PAYMENT.

A finding of death made by an officer or employee of the United States Government authorized by law to make the finding is sufficient proof of death to allow credit in the accounts of a Federal reserve bank or accountable official of the Department of the Treasury in a case involving the transfer, exchange, reissue, redemption, or payment of obligations of the Government, including obligations guaranteed by the Government for which the Secretary of the Treasury acts as transfer agent.

SEC. 3129. APPROPRIATION TO PAY EXPENSES.

(a) Amounts to pay necessary expenses (including rent) for an issue of obligations authorized under this chapter are appropriated to the Secretary of the Treasury. However, the amount appropriated under this section may not be more than—

(1) .2 percent of the amount of bonds and notes authorized under this chapter;

(2) .1 percent of the amount of certificates of indebtedness authorized under section 3104 of this title; and

(3) .1 percent of the amount of certificates of indebtedness authorized under the First Liberty Bond Act.

(b) An appropriation under this section is available for obligation only through the end of the fiscal year after the fiscal year in which the issue was made. During a period for which an appropriation for a specified amount is made for expenses for which this section makes an appropriation for an unspecified amount, only the appropriation for the specified amount is available for obligation.

SEC. 3130. ANNUAL PUBLIC DEBT REPORT.

(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) the Treasury's public debt activities, and

(2) the operations of the Federal Financing Bank.

(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

(1) A table showing the following information with respect to the total public debt:

(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

(2) A table showing the following information with respect to the net public debt:

(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations, including a discussion of the projections and assumptions with respect to the structure of interest rates for the current fiscal year and for the succeeding 5 fiscal years.

(4) A table showing the following information as of the time the report is submitted and for prior years:

(A) A description of the various categories of the holders of public debt obligations.

(B) The portions of the total public debt held by each of such categories.

(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

(e) DEFINITIONS.—For purposes of this section—

(1) CURRENT FISCAL YEAR.—The term "current fiscal year" means the fiscal year ending in the calendar year in which the report is submitted.

(2) TOTAL PUBLIC DEBT.—The term "total public debt" means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

(3) NET PUBLIC DEBT.—The term "net public debt" means the portion of the total public debt which is held by the public.

(4) DEBT TO GDP RATIO.—The term "debt to GDP ratio" means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

(5) INTEREST COST TO OUTLAY RATIO.—The term "interest cost to outlay ratio" means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
3101 et seq.	31 C.F.R. 344, 355, 358
3101–3129	31 C.F.R. 306, 357
3102 et seq.	31 C.F.R. 344, 356
3102–3104	31 C.F.R. 306
3103	31 C.F.R. 342
3105	31 C.F.R. 315–317, 321, 330, 332, 352, 353
3107–3108	31 C.F.R. 306
3111	31 C.F.R. 306
3121–3123	31 C.F.R. 306
3121	17 C.F.R. 450; 31 C.F.R. 353
3122	31 C.F.R. 203, 214
3125	31 C.F.R. 306
3126	31 C.F.R. 321
3129	31 C.F.R. 306

TITLE 31—MONEY AND FINANCE

Subtitle III—Financial Management

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CHAPTER 33—DEPOSITING, KEEPING, AND PAYING MONEY

SUBCHAPTER I—DEPOSITS AND DEPOSITORIES

SEC. 3301. GENERAL DUTIES OF THE SECRETARY OF THE TREASURY.

(a) The Secretary of the Treasury shall—

(1) receive and keep public money;

(2) take receipts for money paid out by the Secretary;

(3) give receipts for money deposited in the Treasury;

(4) endorse warrants for receipts for money deposited in the Treasury;

(5) submit the accounts of the Secretary to the Comptroller General every 3 months, or more often if required by the Comptroller General; and

(6) submit to inspection at any time by the Comptroller General of money in the possession of the Secretary.

(b) Except as provided in section 3326 of this title, an acknowledgment for money deposited in the Treasury is not valid if the Secretary does not endorse a warrant as required by subsection (a)(4) of this section.

SEC. 3302. CUSTODIANS OF MONEY.

(a) Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without—

(1) lending the money;

(2) using the money;

(3) depositing the money in a bank; and

(4) exchanging the money for other amounts.

(b) Except as provided in section 3718(b) of this title, an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

(c)(1) A person having custody or possession of public money, including a disbursing official having public money not for current expenditure, shall deposit the money without delay in the Treasury or with a depositary designated by the Secretary of the Treasury under law. Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money. The Secretary or a depositary receiving a deposit shall issue dupli-

cate receipts for the money deposited. The original receipt is for the Secretary and the duplicate is for the custodian.

(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).

(d) An official or agent not complying with subsection (b) of this section may be removed from office. The official or agent may be required to forfeit to the Government any part of the money held by the official or agent and to which the official or agent may be entitled.

(e) An official or agent of the Government having custody or possession of public money shall keep an accurate entry of each amount of public money received, transferred, and paid.

(f) When authorized by the Secretary, an official or agent of the Government having custody or possession of public money, or performing other fiscal agent services, may be allowed necessary expenses to collect, keep, transfer, and pay out public money and to perform those services. However, money appropriated for those expenses may not be used to employ or pay officers and employees of the Government.

SEC. 3303. DESIGNATION OF DEPOSITARIES.

(a) The Secretary of the Treasury designates depositaries of money as provided in this section and under other law.

(b) When necessary to carry out the business of the United States Government and under conditions the Secretary decides are necessary, the Secretary may designate depositaries in foreign countries and in territories and possessions of the United States to receive deposits of public money. The Secretary shall give preference to United States financial institutions the Secretary decides are safe and able to give the service required.

SEC. 3304. TRANSFERS OF PUBLIC MONEY FROM DEPOSITARIES.

The Secretary of the Treasury may transfer public money in the possession of a depositary—

(1) to the Treasury; and

(2) if the Secretary believes the safety of the public money and convenience require it, to another depositary.

SEC. 3305. AUDITS OF DEPOSITARIES.

The Secretary of the Treasury, or an officer, employee, or agent designated by the Secretary, may audit a depositary of public money. For uniformity and accuracy in accounts and safety of public money, an individual conducting an audit shall audit a depositary's—

(1) books;

(2) accounts;

(3) returns; and

(4) public money on hand and the way the money is kept.

SUBCHAPTER II—PAYMENTS

SEC. 3321. DISBURSING AUTHORITY IN THE EXECUTIVE BRANCH.

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

(1) United States Marshal's Office.

(2) The Department of Defense (except for disbursements for departmental pay and expenses in the District of Columbia).

(d) On request of the Secretary and with the approval of the head of an executive agency referred to in subsection (c) of this section, facilities of the agency may be used to assist in disbursing public money available for expenditure by another executive agency.

SEC. 3322. DISBURSING OFFICIALS.

(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. Except as provided in subsection (b) of this section, a disbursing official shall—

(1) deposit public money as required by section 3302 of this title; and

(2) draw public money from the Treasury or a depositary only—

(A) as necessary to make payments; and

(B) payable to persons to whom payment is to be made.

(b) In a place without a depositary, the Secretary, on deciding it is essential to the public interest, may authorize specially in writing that public money be—

(1) deposited in any other public depositary; or

(2) kept in another manner under regulations the Secretary decides are the safest and most effective in making a payment to a public creditor easier.

(c) A disbursing official is not liable for an overpayment provided under a United States Government bill of lading or transportation request when the overpayment is caused by the—

(1) use of improper transportation rates or classifications; or

(2) failure to deduct the proper amount under—

(A) a land grant law; or

(B) an equalization or other agreement.

SEC. 3323. WARRANTS.

(a) Except as provided in section 3326 of this title, the Secretary of the Treasury may pay out money only against a warrant. A warrant shall be—

(1) authorized by law;

(2) signed by the Secretary; and

(3) countersigned by the Comptroller General.

(b)(1) A disbursing official shall send to the Secretary with a warrant a certificate under section 3526 of this title, or a requisition for an advance. The certificate or requisition shall state the appropriation to which the payment is to be charged.

(2) The Secretary shall return the certificate or requisition to the Comptroller General with the date and amount endorsed on the certificate or requisition.

(c) A requisition for the payment of money on an audited account or for depositing money in the Treasury is not required.

(d) The Secretary and the Comptroller General shall charge to the appropriate appropriation in their books any money paid by a warrant.

SEC. 3324. ADVANCES.

(a) Except as provided in this section, a payment under a contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered.

(b) An advance of public money may be made only if it is authorized by—

(1) a specific appropriation or other law; or

(2) the President to be made to—

(A) a disbursing official if the President decides the advance is necessary to carry out—

(i) the duties of the official promptly and faithfully; and

(ii) an obligation of the Government; or

(B) an individual serving in the armed forces at a distant station if the President decides the advance is necessary to disburse regularly pay and allowances.

(c) Before the Secretary of the Treasury acts on a requisition for an advance, the Comptroller General shall act on the requisition under section 3522 of this title. The Comptroller General does not countersign a requisition for an advance.

(d) The head of an agency may pay in advance from appropriations available for the purpose—

(1) to the Secretary of the Army, charges for messages sent by the Secretary of the Army for the head of the agency, including charges for—

(A) payment of tolls of commercial carriers;

(B) leasing facilities for sending messages; and

(C) installing and maintaining facilities for sending messages; and

(2) charges for a publication printed or recorded in any way for the auditory or visual use of the agency.

SEC. 3325. VOUCHERS.

(a) A disbursing official in the executive branch of the United States Government shall—

(1) disburse money only as provided by a voucher certified by—

(A) the head of the executive agency concerned; or

(B) an officer or employee of the executive agency having written authorization from the head of the agency to certify vouchers;

(2) examine a voucher if necessary to decide if it is—
(A) in proper form;
(B) certified and approved; and
(C) computed correctly on the facts certified; and
(3) except for the correctness of computations on a voucher, be held accountable for carrying out clauses (1) and (2) of this subsection.

(b) Subsection (a) of this section does not apply to disbursements of a military department of the Department of Defense, except for disbursements for departmental pay and expenses in the District of Columbia.

(c) On request, the Secretary of the Treasury may provide to the appropriate officer or employee of the United States Government a list of persons receiving periodic payments from the Government. When certified and in proper form, the list may be used as a voucher on which the Secretary may disburse money.

SEC. 3326. WAIVER OF REQUIREMENTS FOR WARRANTS AND ADVANCES.

(a) When the Secretary of the Treasury and the Comptroller General decide that, with sufficient safeguards, existing procedures may be changed to simplify, improve, and economize the control and accounting of public money, they may prescribe joint regulations for waiving any part of the requirements in effect on September 12, 1950, that—

(1) warrants be issued and countersigned for the receipt, retention, and disbursement of public money and trust funds; and

(2) amounts be requisitioned and advanced to accountable officials.

(b) Regulations of the Secretary and the Comptroller General may provide for the payment of vouchers by authorized disbursing officials by checks drawn on the general fund of the Treasury. However, the regulations shall provide for appropriate action (including suspension or withdrawal of authority to make payments) against a delinquent disbursing official for any reason related to the official's accounts.

SEC. 3327. GENERAL AUTHORITY TO ISSUE CHECKS AND OTHER DRAFTS.

The Secretary of the Treasury may issue a check or other draft on public money in the Treasury to pay an obligation of the United States Government. When the Secretary decides it is convenient to a public creditor and in the public interest, the Secretary may designate a depositary to issue a check or other draft on public money held by the depositary to pay an obligation of the Government. As directed by the Secretary, each depositary shall report to the Secretary on public money paid and received by the depositary.

SEC. 3328. PAYING CHECKS AND DRAFTS.

(a) TIME LIMIT ON TREASURY CHECKS.—

(1) IN GENERAL.—Except as provided in sections 3329 and 3330 of this title—

(A) the Secretary shall not be required to pay a Treasury check issued on or after the effective date of this section

unless it is negotiated to a financial institution within 12 months after the date on which the check was issued; and

(B) the Secretary shall not be required to pay a Treasury check issued before the effective date of this section unless it is negotiated to a financial institution within 12 months after such effective date.

(2) DEFERRAL PENDING SETTLEMENT.—Notwithstanding the time limitations imposed by paragraph (1), if the Secretary is on notice of a question of law or fact about whether a Treasury check is properly payable when the check is presented for payment, the Secretary may defer payment on such check until the Comptroller General settles the question.

(3) Nothing in this subsection shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(b)(1) If a check issued by a disbursing official and drawn on a designated depositary is not paid by the last day of the fiscal year after the fiscal year in which the check was issued, the amount of the check is—

(A) withdrawn from the account with the depositary; and

(B) deposited in the Treasury for credit to a consolidated account of the Treasury.

(2) A claim for the proceeds of an unpaid check under this subsection may be paid from a consolidated account by a check drawn on the Treasury on settlement by the Comptroller General.

(c) A limitation imposed on a claim against the United States Government under section 3702 of this title does not apply to an unpaid check drawn on the Treasury or a designated depositary.

(d) With the approval of the Comptroller General, the Secretary may prescribe regulations the Secretary decides are necessary to carry out subsections (a)–(c) of this section.

(e)(1) The Secretary shall prescribe regulations on—

(A) enforcing the speedy presentation of Government drafts;

(B) paying drafts, including the place of payment; and

(C) paying drafts if presentment is not made as required.

(2) Regulations prescribed under paragraph (1) of this subsection shall prevent, as far as may be practicable, Government drafts from being used or placed in circulation as paper currency or a medium of exchange.

(f) AUTHORITY TO DECLINE PAYMENT.—Nothing in this section limits the authority of the Secretary to decline payment of a Treasury check after first examination thereof at the Treasury.

SEC. 3329. WITHHOLDING CHECKS TO BE SENT TO FOREIGN COUNTRIES.

(a) The Secretary of the Treasury shall prohibit a check or warrant drawn on public money from being sent to a foreign country from the United States or from a territory or possession of the United States when the Secretary decides that postal, transportation, or banking facilities generally, or local conditions in the foreign country, do not reasonably ensure that the payee—

(1) will receive the check or warrant; and

(2) will be able to negotiate it for full value.

(b)(1) If a check or warrant is prohibited from being sent to a foreign country under subsection (a) of this section, the drawer shall

hold the check or warrant until the end of the calendar quarter after the date of the check or warrant.

(2) The Secretary may release the check or warrant for delivery during the calendar quarter after the date of the check or warrant if the Secretary decides that conditions have changed to ensure reasonably that the payee—

(A) will receive the check or warrant; and

(B) will be able to negotiate it for full value.

(3) Unless the Secretary otherwise directs, the drawer shall send at the end of the calendar quarter after the date of the check or warrant the—

(A) withheld check or warrant to the drawee; and

(B) report to the Secretary on—

(i) the name and address of the payee;

(ii) the date, number, and amount of the check or warrant; and

(iii) the account on which the check or warrant was drawn.

(4) The drawee shall transfer the amount of a withheld check or warrant from the account of the drawer to the special deposit account "Secretary of the Treasury, Proceeds of Withheld Foreign Checks". The check or warrant shall be marked "Paid into Withheld Foreign Check Account". After that time, the drawee shall send all withheld checks and warrants to the Comptroller General. The Comptroller General shall credit the accounts of the drawer and drawee.

(c) The Secretary may pay an amount deposited in the special account under subsection (b)(4) of this section with a check drawn on the account when—

(1) a person claiming payment satisfies the Secretary of the right to the amount of the check or warrant (or satisfies the Secretary of Veterans Affairs if the claim represents a payment under laws administered by the Secretary of Veterans Affairs); and

(2) the Secretary is reasonably ensured that the person—

(A) will receive the check or warrant; and

(B) will be able to negotiate it for full value.

(d) This section and section 3330 of this title—

(1) apply to a check or warrant whose delivery may be withheld under Executive Order 8389;

(2) do not affect a requirement for a license for delivering and paying a check in payment of a claim under subsection (c) of this section when a license is required by law to authorize delivery and payment; and

(3) do not affect a check or warrant issued for the payment of pay or goods bought by the United States Government in a foreign country.

SEC. 3330. PAYMENT OF DEPARTMENT OF VETERANS AFFAIRS CHECKS FOR THE BENEFIT OF INDIVIDUALS IN FOREIGN COUNTRIES.

(a)(1) A check is deemed to be issued for sending to a foreign country and subject to this section and section 3329 of this title if the check is—

(A) drawn on public money;

(B) for benefits under laws carried out by the Secretary of Veterans Affairs; and

(C) to be sent to a person in the United States or a territory or possession of the United States, and the person is legally responsible for the care of an individual in a foreign country.

(2) The Secretary of Veterans Affairs shall notify the Secretary of the Treasury of each check described under paragraph (1) of this subsection.

(3) The Secretary of Veterans Affairs may exempt a check from paragraph (1) of this subsection if the application of paragraph (1) would reduce, discontinue, or deny benefits for the care of a dependent of an individual in a foreign country.

(b) When the amount of checks (representing payments to an individual under laws administered by the Secretary of Veterans Affairs) transferred under section 3329(b)(4) of this title equals $1,000, the amounts of additional checks (except checks under contracts of insurance) payable to the individual under those laws shall be deposited in the Treasury as miscellaneous receipts. An amount transferred under section 3329(b)(4) or deposited as miscellaneous receipts is deemed to be payment for all purposes to the individual entitled to payment.

(c) If the payee of a check for pension, compensation, or emergency officers' retirement pay under laws administered by the Secretary of Veterans Affairs dies while the amount of the check is in the special deposit account, the amount is payable (subject to section 3329 of this title and this section) as follows:

(1) after the death of the veteran, to the surviving spouse, or, if there is no surviving spouse, to children of the veteran under 18 years of age at the time of the veteran's death.

(2) after the death of the surviving spouse, to children of the spouse under 18 years of age at the time of the spouse's death.

(3) after the death of an apportionee of a part of the veteran's pension, compensation, or emergency officers' retirement pay but before all of the apportioned amount is paid to the veteran, the apportioned amount not paid.

(4) in any other case, only to the extent necessary to reimburse a person for burial expenses.

(d)(1) A payment may be made under subsection (c) of this section only if a claim for payment is—

(A) filed with the Secretary of Veterans Affairs by the end of the first year after the date of the death of the individual entitled to payment; and

(B) completed by submitting the necessary evidence by the 6th month after the date the Secretary of Veterans Affairs requests the evidence.

(2) Payment shall include only amounts due at the time of death under ratings or decisions existing at the time of the death.

SEC. 3331. SUBSTITUTE CHECKS.

(a) In this section, "original check"—

(1) means an order for the payment of money—

(A) payable on demand;

(B) that does not bear interest;

(C) drawn by an authorized disbursing official or agent of the United States Government; and

(D) the amount of which is deposited with the Treasury or another account available for payment; and

(2) does not include coins and currency of the Government.

(b) When the Secretary of the Treasury is satisfied that an original check is lost, stolen, destroyed in any part, or is so defaced that the value to the owner or holder is impaired, the Secretary may issue a substitute check to the owner or holder of the original check. Except as provided in subsection (c) of this section, the substitute check is payable from the amount available to pay the original check.

(c) When the Secretary is satisfied that an original check drawn on a depositary in a foreign country or a territory or possession of the United States is lost, stolen, destroyed in part, or is so defaced that its value to the owner or holder is impaired, the drawer of the original check (or another official designated by the Secretary with the approval of the head of the agency on whose behalf the original check was issued) may issue to the owner or holder of the check a substitute check. The drawer or official shall issue the substitute check by the last day of the fiscal year after the fiscal year in which the original check was issued—

(1) using the current date; and

(2) drawn on the account of the drawer of the original check or another account available for payment of the substitute.

(d) A substitute check issued under this section—

(1) may be paid only if the original check has not been paid;

(2) shall include information necessary to identify the original check;

(3) that is drawn on the Treasury—

(A) is deemed to be an original check; and

(B) is paid under the same conditions as the original check; and

(4) does not relieve a disbursing or certifying official from liability to the Government for payment resulting from erroneously issuing the original check.

(e) Before issuing a substitute check under this section, the Secretary may require the owner or holder of the original check to agree to indemnify the Government with security in the form and amount the Secretary decides is necessary.

(f) Under conditions the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may delegate those duties and powers to an officer or employee of the agency.

SEC. 3332. REQUIRED DIRECT DEPOSIT.

(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.

SEC. 3333. RELIEF FOR PAYMENTS MADE WITHOUT NEGLIGENCE.

(a)(1) The Secretary of the Treasury is not liable for a payment made by the Secretary or depositary in due course and without negligence, of a—

(A) check, draft, or warrant drawn on the Treasury or the depositary; and

(B) debt obligation guaranteed or assumed by the United States Government.

(2) The Comptroller General shall credit the accounts of the Treasury or the depositary for the payment.

(b) This section does not relieve another individual from civil or criminal liability for a check, draft, warrant, or debt obligation of the Government.

SEC. 3334. CANCELLATION AND PROCEEDS DISTRIBUTION OF TREASURY CHECKS.

(a) IN GENERAL.—(1) The Secretary shall provide monthly to each agency that authorizes the issuance of Treasury checks a list of those checks issued for such agency on or after such effective date that have not been paid and have become more than 12 months old during the preceding month, beginning with the fourteenth month following the effective date of this section.

(2) Such checks shall be canceled by the Secretary and the proceeds thereof shall be returned to the agency concerned and credited to the appropriation or fund account initially charged for the payment.

(b) CHECKS ISSUED BEFORE EFFECTIVE DATE.—(1) Not later than 18 months after the effective date of this section, the Secretary shall identify and cancel all Treasury checks issued before such effective date that have not been paid in accordance with section 3328 of this title.

(2) The proceeds from checks canceled pursuant to paragraph (1) shall be applied to eliminate the balances in accounts that represent uncollectible accounts receivable and other costs associated with the payment of checks and check claims by the Department of the Treasury on behalf of all payment certifying agencies. Any remaining proceeds shall be deposited to the miscellaneous receipts of the Treasury.

(c) NO EFFECT ON UNDERLYING OBLIGATION.—Nothing in this section shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

SEC. 3335. TIMELY DISBURSEMENT OF FEDERAL FUNDS.

(a) Each head of an executive agency (other than the Tennessee Valley Authority) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary.

(b) The Secretary may collect from any executive agency which does not comply with subsection (a) a charge in an amount the Secretary determines to be the cost to the general fund of the Treasury caused by such noncompliance.

(c) The amounts of charges collected from an executive agency under this section shall be deposited in the Treasury and credited as miscellaneous receipts.

(d) Any charge assessed by the Secretary under this section, to the maximum extent practicable—

(1) shall be paid out of appropriations available for executive agency operations; and

(2) shall not be paid from amounts available for funding programs of an executive agency.

SUBCHAPTER III—MISCELLANEOUS

SEC. 3341. SALE OF GOVERNMENT WARRANTS, CHECKS, DRAFTS, AND OBLIGATIONS.

(a) A disbursing official of the United States Government may sell a Government warrant, check, draft, or obligation not the property of the official at a premium, or dispose of the proceeds of the warrant, check, draft, or obligation, only if the official deposits the premium and the proceeds in the Treasury or with a depositary for the credit of the Government.

(b) A disbursing official violating subsection (a) of this section shall be dismissed immediately.

SEC. 3342. CHECK CASHING AND EXCHANGE TRANSACTIONS.

(a) A disbursing official of the United States Government may—

(1) cash and negotiate negotiable instruments payable in United States currency or currency of a foreign country;

(2) exchange United States currency, coins, and negotiable instruments and currency, coins, and negotiable instruments of foreign countries; and

(3) cash checks drawn on the Treasury to accommodate United States citizens in a foreign country, but only if—

(A) satisfactory banking facilities are not available in the foreign country; and

(B) a check is presented by the payee who is a United States citizen.

(b) A disbursing official may act under subsection (a)(1) and (2) of this section only for—

(1) an official purpose;

(2) personnel of the Government;

(3) a veteran hospitalized or living in an institution operated by an agency;

(4) a contractor, or personnel of a contractor, carrying out a Government project; and

(5) personnel of an authorized agency not part of the Government that operates with an agency of the Government.

(c)(1) An amount held by the disbursing official that is available for expenditure may be used to carry out subsection (a) of this section with the approval of the head of the agency having jurisdiction over the amount.

(2) The head of an agency having jurisdiction over a disbursing official may offset, within the same fiscal year, a deficiency resulting from a transaction under subsection (a) of this section with a gain from a transaction under subsection (a). A gain in the account of a disbursing official not used to offset deficiencies under subsection (a) shall be deposited in the Treasury as miscellaneous receipts.

(3) Amounts necessary to adjust for deficiencies in the account of a disbursing official because of transactions under subsection (a) of this section are authorized to be appropriated.

(d) The Secretary of the Treasury and, with the approval of the Secretary, the head of an agency having jurisdiction over a disbursing official, may issue regulations to carry out this section. However, under conditions the Secretary decides are necessary, the Secretary may delegate to the head of an agency the authority to issue regulations applying to a disbursing official that is an officer or employee of the agency.

SEC. 3343. CHECK FORGERY INSURANCE FUND.

(a) The Department of the Treasury has a special deposit revolving fund, the "Check Forgery Insurance Fund". Amounts may be appropriated to the Fund. The Fund consists of amounts—

(1) appropriated to the Fund; and

(2) received under subsection (d) of this section.

(b) The Secretary of the Treasury shall pay from the Fund to a payee or special endorsee of a check drawn on the Treasury or a depositary designated by the Secretary the amount of the check without interest if—

(1) the check was lost or stolen without the fault of the payee or a holder that is a special endorsee and whose endorsement is necessary for further negotiation;

(2) the check was negotiated later and paid by the Secretary or a depositary on a forged endorsement of the payee's or special endorsee's name;

(3) the payee or special endorsee has not participated in any part of the proceeds of the negotiation or payment; and

(4) recovery from the forger, a transferee, or a party on the check after the forgery has been or may be delayed or unsuccessful.

(c) Notwithstanding section 1306 of this title, a check drawn on a designated depositary may be paid in the currency of a foreign country when the appropriate accountable official authorizes payment in that currency.

(d) The Secretary shall deposit immediately to the credit of the Fund an amount recovered from a forger or a transferee or party on the check. However, currency of a foreign country recovered because of a forged check drawn on a designated depositary shall be credited to the Fund or to the foreign currency fund that was charged when payment was made under subsection (b) of this section to the payee or special endorsee.

(e) This section does not relieve—

(1) a forger from civil or criminal liability; or

(2) a transferee or party on a check after the forgery from liability—

(A) on the express or implied warranty of prior endorsements of the transferee or party; or

(B) to refund amounts to the Secretary.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
3301	31 C.F.R. 206
	TFM, Volume 1, Part 6, Chapter 8000 and Chapter 9000, see appendix V
3302	31 C.F.R. 206
	OMB: Circular A–50, see appendix IV
	TFM, Volume 1, Part 6, Chapter 8000, see appendix V
3321	31 C.F.R. 206
	TFM, Volume 1, Part 2, Chapter 3100, see appendix V
	TFM, Volume 1, Part 4, Chapter 1000, Chapter 1100, Chapter 3000, Chapter 4500, see appendix V
3322	OMB: Bulletin 94–09, see appendix IV
	TFM, Volume 1, Part 4, Chapter 4500, see appendix V
3325	TFM, Volume 1, Part 4, Chapter 1100, see appendix V
	TFM, Volume 1, Part 6, Chapter 6000, see appendix V
3326	TFM, Volume 1, Part 6, Chapter 6000, see appendix V
3327	31 C.F.R. 206
	TFM, Volume 1, Part 4, Chapter 4500, see appendix V
3328	31 C.F.R. 206, 240, 245
3331	31 C.F.R. 240, 245, 248
3332	31 C.F.R. 206
3335	31 C.F.R. 205, 206
	OMB: Bulletin 94–09, see appendix IV
	TFM, Volume 1, Part 4, Chapter 4500, see appendix V
3343	31 C.F.R. 235, 240

TITLE 31—MONEY AND FINANCE

Subtitle III—Financial Management

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CHAPTER 35—ACCOUNTING AND COLLECTION

SUBCHAPTER I—GENERAL

SEC. 3501. DEFINITION

In this chapter, "executive agency" does not include (except in section 3513 of this title) a corporation, agency, or instrumentality subject to chapter 91 of this title.

SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

SEC. 3511. PRESCRIBING ACCOUNTING REQUIREMENTS AND DEVELOPING ACCOUNTING SYSTEMS.

(a) The Comptroller General shall prescribe the accounting principles, standards, and requirements that the head of each executive agency shall observe.[5] Before prescribing the principles, standards, and requirements, the Comptroller General shall consult with the Secretary of the Treasury and the President on their accounting, financial reporting, and budgetary needs, and shall consider the needs of the heads of the other executive agencies.

(b) Requirements prescribed under subsection (a) of this section shall—

(1) provide for suitable integration between the accounting process of each executive agency and the accounting of the Department of the Treasury;

(2) allow the head of each agency to carry out section 3512 of this title; and

(3) provide a method of—

(A) integrated accounting for the United States Government;

(B) complete disclosure of the results of the financial operations of each agency and the Government; and

(C) financial information and control the President and Congress require to carry out their responsibilities.

(c) Consistent with subsections (a) and (b) of this section—

(1) the authority of the Comptroller General continues under section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b)); and

[5] The Comptroller General also prescribes internal control standards. The "Federal Managers' Financial Integrity Act of 1982," PL 97–255, Section 2(d)(1)(A) states that ". . . internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General . . ."

(2) the Comptroller General may prescribe the forms, systems, and procedures that the judicial branch of the Government (except the Supreme Court) shall observe.

(d) The Comptroller General, the Secretary, and the President shall conduct a continuous program for improving accounting and financial reporting in the Government.

SEC. 3512. EXECUTIVE AGENCY ACCOUNTING AND OTHER FINANCIAL MANAGEMENT REPORTS AND PLANS.

(a)(1) The Director of the Office of Management and Budget shall prepare and submit to the appropriate committees of the Congress a financial management status report and a governmentwide 5-year financial management plan.

(2) A financial management status report under this subsection shall include—

(A) a description and analysis of the status of financial management in the executive branch;

(B) a summary of the most recently completed financial statements—

(i) of Federal agencies under section 3515 of this title; and

(ii) of Government corporations;

(C) a summary of the most recently completed financial statement audits and reports—

(i) of Federal agencies under section 3521(e) and (f) of this title; and

(ii) of Government corporations;

(D) a summary of reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97–255); and

(E) any other information the Director considers appropriate to fully inform the Congress regarding the financial management of the Federal Government.

(3)(A) A governmentwide 5-year financial management plan under this subsection shall describe the activities the Director, the Deputy Director for Management, the Controller of the Office of Federal Financial Management, and agency Chief Financial Officers shall conduct over the next 5 fiscal years to improve the financial management of the Federal Government.

(B) Each governmentwide 5-year financial management plan prepared under this subsection shall—

(i) describe the existing financial management structure and any changes needed to establish an integrated financial management system;

(ii) be consistent with applicable accounting principles, standards, and requirements;

(iii) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy, consistency, and timeliness of financial information;

(iv) identify and make proposals to eliminate duplicative and unnecessary systems, including encouraging agencies to share systems which have sufficient capacity to perform the functions needed;

(v) identify projects to bring existing systems into compliance with the applicable standards and requirements;

(vi) contain milestones for equipment acquisitions and other actions necessary to implement the 5-year plan consistent with the requirements of this section;

(vii) identify financial management personnel needs and actions to ensure those needs are met;

(viii) include a plan for ensuring the annual audit of financial statements of executive agencies pursuant to section 3521(h) of this title; and

(ix) estimate the costs of implementing the governmentwide 5-year plan.

(4)(A) Not later than 15 months after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall submit the first financial management status report and governmentwide 5-year financial management plan under this subsection to the appropriate committees of the Congress.

(B)(i) Not later than January 31 of each year thereafter, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress a financial management status report and a revised governmentwide 5-year financial management plan to cover the succeeding 5 fiscal years, including a report on the accomplishments of the executive branch in implementing the plan during the preceding fiscal year.

(ii) The Director shall include with each revised governmentwide 5-year financial management plan a description of any substantive changes in the financial statement audit plan required by paragraph (3)(B)(viii), progress made by executive agencies in implementing the audit plan, and any improvements in Federal Government financial management related to preparation and audit of financial statements of executive agencies.

(5) Not later than 30 days after receiving each annual report under section 902(a)(6) of this title, the Director shall transmit to the Chairman of the Committee on Government Operations of the House of Representatives and the Chairman of the Committee on Governmental Affairs of the Senate a final copy of that report and any comments on the report by the Director.

(b) The head of each executive agency shall establish and maintain systems of accounting and internal controls that provide—

(1) complete disclosure of the financial results of the activities of the agency;

(2) adequate financial information the agency needs for management purposes;

(3) effective control over, and accountability for, assets for which the agency is responsible, including internal audit;

(4) reliable accounting results that will be the basis for—

(A) preparing and supporting the budget requests of the agency;

(B) controlling the carrying out of the agency budget; and

(C) providing financial information the President requires under section 1104(e) of this title; and

(5) suitable integration of the accounting of the agency with the central accounting and reporting responsibilities of the Secretary of the Treasury under section 3513 of this title.

(c)(1) To ensure compliance with subsection (b)(3) of this section and consistent with standards the Comptroller General prescribes, the head of each executive agency shall establish internal accounting and administrative controls that reasonably ensure that—

(A) obligations and costs comply with applicable law;

(B) all assets are safeguarded against waste, loss, unauthorized use, and misappropriation; and

(C) revenues and expenditures applicable to agency operations are recorded and accounted for properly so that accounts and reliable financial and statistical reports may be prepared and accountability of the assets may be maintained.

(2) Standards the Comptroller General prescribes under this subsection shall include standards to ensure the prompt resolution of all audit findings.

(d)(1) In consultation with the Comptroller General, the Director of the Office of Management and Budget—

(A) shall establish by December 31, 1982, guidelines that the head of each executive agency shall follow in evaluating the internal accounting and administrative control systems of the agency to decide whether the systems comply with subsection (c) of this section; and

(B) may change a guideline when considered necessary.

(2) By December 31 of each year (beginning in 1983), the head of each executive agency, based on an evaluation conducted according to guidelines prescribed under paragraph (1) of this subsection, shall prepare a statement on whether the systems of the agency comply with subsection (c) of this section, including—

(A) if the head of an executive agency decides the systems do not comply with subsection (c) of this section, a report identifying any material weakness in the systems and describing the plans and schedule for correcting the weakness; and

(B) a separate report on whether the accounting system of the agency conforms to the principles, standards, and requirements the Comptroller General prescribes under section 3511(a) of this title.

(3) The head of each executive agency shall sign the statement and reports required by this subsection and submit them to the President and Congress. The statement and reports are available to the public, except that information shall be deleted from a statement or report before it is made available if the information specifically is—

(A) prohibited from disclosure by law; or

(B) required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e) To assist in preparing a cost-based budget under section 1108(b) of this title and consistent with principles and standards the Comptroller General prescribes, the head of each executive agency shall maintain the accounts of the agency on an accrual basis to show the resources, liabilities, and costs of operations of the agency. An accounting system under this subsection shall include monetary property accounting records.

(f) The Comptroller General shall—

(1) cooperate with the head of each executive agency in developing an accounting system for the agency; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

(g) The Comptroller General shall review the accounting systems of each executive agency. The results of a review shall be available to the head of the executive agency, the Secretary, and the President. The Comptroller General shall report to Congress on a review when the Comptroller General considers it proper.

SEC. 3513. FINANCIAL REPORTING AND ACCOUNTING SYSTEM.

(a) The Secretary of the Treasury shall prepare reports that will inform the President, Congress, and the public on the financial operations of the United States Government. The reports shall include financial information the President requires. The head of each executive agency shall give the Secretary reports and information on the financial conditions and operations of the agency the Secretary requires to prepare the reports.

(b) The Secretary may—

(1) establish facilities necessary to prepare the reports; and

(2) reorganize the accounting functions and procedures and financial reports of the Department of the Treasury to develop an effective and coordinated system of accounting and financial reporting in the Department that will integrate the accounting results for the Department and be the operating center for consolidating accounting results of other executive agencies with accounting results of the Department.

(c) The Comptroller General shall—

(1) cooperate with the Secretary in developing and establishing the reporting and accounting system under this section; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

SEC. 3514. DISCONTINUING CERTAIN ACCOUNTS MAINTAINED BY THE COMPTROLLER GENERAL.

The Comptroller General may discontinue an agency appropriation, expenditure, limitation, receipt, or personal ledger account maintained by the Comptroller General when the Comptroller General believes that the accounting system and internal controls of the agency will allow the Comptroller General to carry out the functions related to the account.

SEC. 3515. FINANCIAL STATEMENTS OF AGENCIES.

(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

(b) Each audited financial statement of an executive agency under this section shall reflect—

(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

(2) results of operations of those offices, bureaus, and activities.

(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

(1) each revolving fund and trust fund of the agency; and

(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

(h) For purposes of subsection (g), the term "commercial functions" includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.

SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

SEC. 3521. AUDITS BY AGENCIES.

(a) Each account of an agency shall be audited administratively before being submitted to the Comptroller General. The head of each agency shall prescribe regulations for conducting the audit and designate a place at which the audit is to be conducted. However, a disbursing official of an executive agency may not administratively audit vouchers for which the official is responsible. With the consent of the Comptroller General, the head of the agency may waive any part of an audit.

(b) The head of an agency may prescribe a statistical sampling procedure to audit vouchers of the agency when the head of the agency decides economies will result from using the procedure. The Comptroller General—

(1) may prescribe the maximum amount of a voucher that may be audited under this subsection; and

(2) in reviewing the accounting system of the agency, shall evaluate the adequacy and effectiveness of the procedure.

(c) A disbursing or certifying official acting in good faith under subsection (b) of this section is not liable for a payment or certification of a voucher not audited specifically because of the procedure prescribed under subsection (b) if the official and the head of the agency carry out diligently collection action the Comptroller General prescribes.

(d) Subsections (b) and (c) of this section do not—

(1) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(2) relieve a disbursing or certifying official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Each financial statement prepared under section 3515 by an agency shall be audited in accordance with applicable generally accepted government auditing standards—

(1) in the case of an agency having an Inspector General appointed under the Inspector General Act of 1978 (5 U.S.C. App.), by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

(2) in any other case, by an independent external auditor, as determined by the head of the agency.

(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

(g) The Comptroller General of the United States—

(1) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

(2) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the agency which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General considers appropriate; and

(3) may audit a financial statement prepared under section 3515 of this title at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this subsection shall be in lieu of the audit otherwise required by subsection (e) of this section. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

(h) Each financial statement prepared by an executive agency for a fiscal year after fiscal year 1991 shall be audited in accordance with this section and the plan required by section 3512(a)(3)(B)(viii) of this title.

SEC. 3522. MAKING AND SUBMITTING ACCOUNTS.

(a)(1) Unless the Comptroller General decides the public interest requires that an account be made more frequently, each disbursing official shall make a quarterly account. An official or agent of the United States Government receiving public money not authorized to be kept as pay of the official or agent shall make a monthly account of the money.

(2) An official or agent of the Government receiving public money shall make an account of public money received by the official or agent according to the appropriation from which the money was advanced.

(b)(1) A monthly account shall be submitted to the appropriate official in the District of Columbia by the 10th day after the end of the month covered by the account. The official shall submit the account to the Comptroller General by the 20th day after receiving the account.

(2) An account (except a monthly account) shall be submitted to the appropriate official in the District of Columbia by the 20th day after the end of the period covered by the account. The official shall submit the account to the Comptroller General by the 60th day after receiving the account.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, an account of the armed forces shall be submitted to the Comptroller General by the 60th day after the account is received. However, during a war or national emergency and for 18 months after the war or emergency ends, an account shall be submitted to the Comptroller General by the 90th day after the account is received.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, an account of a disbursing official of the Department of Justice shall be submitted to the Comptroller General by the 80th day after the account is received.

(c) An official shall give evidence of compliance with subsection (b) of this section if an account is not received within a reasonable time after the time required by subsection (b).

(d) The head of an agency may require other returns or reports about the agency that the public interest requires.

(e)(1) The Comptroller General shall disapprove a requisition for an advance of money if an account from which the advance is to be made is not submitted to the Comptroller General within the time required by subsection (b) of this section. The Comptroller General may disapprove the request for another reason related to

the condition of an account of the official for whom the advance is requested. However, the Secretary of the Treasury may overrule the decision of the Comptroller General on the sufficiency of the other reasons.

(2) The Secretary may extend the time requirements of subsection (b)(1) and (2) of this section for submitting an account to the proper official in the District of Columbia or waive a condition of delinquency only when there is, or is likely to be, a manifest physical difficulty in complying with those requirements. If an account is not submitted to the Comptroller General on time under subsection (b), an order of the President or, if the President is ill or not in the District of Columbia, the Secretary is required to authorize an advance.

SEC. 3523. GENERAL AUDIT AUTHORITY OF THE COMPTROLLER GENERAL.

(a) Except as specifically provided by law, the Comptroller General shall audit the financial transactions of each agency. In deciding on auditing procedures and the extent to which records are to be inspected, the Comptroller General shall consider generally accepted auditing principles, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of each agency.

(b) The Comptroller General shall audit the Architect of the Capitol at times the Comptroller General considers appropriate. Section 716 of this title applies to the Architect in conducting the audit. The Comptroller General shall report the results of the audit to Congress. Each report shall be printed as a Senate document.

(c)(1) When the Comptroller General decides an audit shall be conducted at a place at which the records of an executive agency or the Architect of the Capitol are usually kept, the Comptroller General may require the head of the agency or the Architect to keep any part of an account of an accountable official or of a record required to be submitted to the Comptroller General. The Comptroller General may require records be kept under conditions and for a period of not more than 10 years specified by the Comptroller General. However, the Comptroller General and the head of the agency or the Architect may agree on a longer period.

(2) The Comptroller General and the head of an agency in the legislative or judicial branch of the United States Government (except the Architect) may agree to apply this subsection to the agency.

SEC. 3524. AUDITING EXPENDITURES APPROVED WITHOUT VOUCHERS.

(a)(1) The Comptroller General may audit expenditures, accounted for only on the approval, authorization, or certificate of the President or an official of an executive agency, to decide if the expenditure was authorized by law and made. Records and related information shall be made available to the Comptroller General in conducting the audit.

(2) The Comptroller General may release the results of the audit or disclose related information only to the President or head of the agency, or, if there is an unresolved discrepancy, to the Committee on Governmental Affairs of the Senate, the Committee on Govern-

ment Operations of the House of Representatives, and the committees of Congress having legislative or appropriation oversight of the expenditure.

(b) Before December 1 of each year, the Director of the Office of Management and Budget shall submit a report listing each account that may be subject to this section to the Committees on the Budget and Appropriations of both Houses of Congress, the Committee on Governmental Affairs, and to the Committee on Government Operations, and to the Comptroller General.

(c) The President may exempt from this section a financial transaction about sensitive foreign intelligence or foreign counter-intelligence activities or sensitive law enforcement investigations if an audit would expose the identifying details of an active investigation or endanger investigative or domestic intelligence sources involved in the investigation. The exemption may apply to a class or category of financial transactions.

(d) This section does not—

(1) apply to expenditures under section 102, 103, 105(d)(1), (3), or (5), or 106(b)(2) or (3) of title 3; or

(2) affect authority under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)).

(e) Information about a financial transaction exempt under subsection (c) of this section or a financial transaction under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)) may be reviewed by the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate.

(f) Subsections (a)(1) and (d)(1) of this section may be superseded only by a law enacted after April 3, 1980, specifically repealing or amending this section.

SEC. 3525. AUDITING NONAPPROPRIATED FUND ACTIVITIES.

(a) The Comptroller General may audit—

(1) the operations and accounts of each nonappropriated fund and related activities authorized or operated by the head of an executive agency to sell goods or services to United States Government personnel and their dependents;

(2) accounting systems and internal controls of the fund and related activities; and

(3) internal or independent audits or reviews of the fund and related activities.

(b) The head of each executive agency promptly shall provide the Comptroller General with—

(1) a copy of the annual report of a nonappropriated fund and related activities subject to this section when the Comptroller General—

(A) requires a report for a designated class of each fund and related activities having gross sales receipts of more than $100,000 a year; or

(B) specifically requests a report for another fund and related activities; and

(2) a statement on the yearly financial operations, financial condition, and cash flow and other yearly information about the fund and related activities that the head of the agency and

the Comptroller General agree on if the information is not included in the annual report.

(c) Records and property of a fund and related activities subject to this section shall be made available to the Comptroller General to the extent the Comptroller General considers necessary.

SEC. 3526. SETTLEMENT OF ACCOUNTS.

(a) The Comptroller General shall settle all accounts of the United States Government and supervise the recovery of all debts finally certified by the Comptroller General as due the Government.

(b) A decision of the Comptroller General under section 3529 of this title is conclusive on the Comptroller General when settling the account containing the payment.

(c)(1) The Comptroller General shall settle an account of an accountable official within 3 years after the date the Comptroller General receives the account. A copy of the certificate of settlement shall be provided the official.

(2) The settlement of an account is conclusive on the Comptroller General after 3 years after the account is received by the Comptroller General. However, an amount may be charged against the account after the 3-year period when the Government has or may have lost money because the official acted fraudulently or criminally.

(3) A 3-year period under this subsection is suspended during a war.

(4) This subsection does not prohibit—

(A) recovery of public money illegally or erroneously paid;

(B) recovery from an official of a balance due the Government under a settlement within the 3-year period; or

(C) an official from clearing an account of questioned items as prescribed by law.

(d) On settling an account of the Government, the balance certified by the Comptroller General is conclusive on the executive branch of the Government. On the initiative of the Comptroller General or on request of an individual whose accounts are settled or the head of the agency to which the account relates, the Comptroller General may change the account within a year after settlement. The decision of the Comptroller General to change the account is conclusive on the executive branch.

(e) When an amount of money is expended under law for a treaty or relations with a foreign country, the President may—

(1) authorize the amount to be accounted for each year specifically by settlement of the Comptroller General when the President decides the amount expended may be made public; or

(2) make, or have the Secretary of State make, a certificate of the amount expended if the President decides the amount is not to be accounted for specifically. The certificate is a sufficient voucher for the amount stated in the certificate.

(f) The Comptroller General shall keep all settled accounts, vouchers, certificates, and related papers until they are disposed of as prescribed by law.

(g) This subchapter does not prohibit the Comptroller General from suspending an item in an account to get additional evidence or explanations needed to settle an account.

SEC. 3527. GENERAL AUTHORITY TO RELIEVE ACCOUNTABLE OFFICIALS AND AGENTS FROM LIABILITY.

(a) Except as provided in subsection (b) of this section, the Comptroller General may relieve a present or former accountable official or agent of an agency responsible for the physical loss or deficiency of public money, vouchers, checks, securities, or records, or may authorize reimbursement from an appropriation or fund available for the activity in which the loss or deficiency occurred for the amount of the loss or deficiency paid by the official or agent as restitution, when—

(1) the head of the agency decides that—

(A) the official or agent was carrying out official duties when the loss or deficiency occurred, or the loss or deficiency occurred because of an act or failure to act by a subordinate of the official or agent; and

(B) the loss or deficiency was not the result of fault or negligence by the official or agent;

(2) the loss or deficiency was not the result of an illegal or incorrect payment; and

(3) the Comptroller General agrees with the decision of the head of the agency.

(b)(1) The Comptroller General shall relieve a disbursing official of the armed forces responsible for the physical loss or deficiency of public money, vouchers, or records, or shall authorize reimbursement, from an appropriation or fund available for reimbursement, of the amount of the loss or deficiency paid by or for the official as restitution, when—

(A) the Secretary of Defense or the appropriate Secretary of the military department of the Department of Defense decides that the official was carrying out official duties when the loss or deficiency occurred;

(B) the loss or deficiency was not the result of an illegal or incorrect payment; and

(C) the loss or deficiency was not the result of fault or negligence by the official.

(2) The finding of the Secretary involved is conclusive on the Comptroller General.

(c) On the initiative of the Comptroller General or written recommendation of the head of an agency, the Comptroller General may relieve a present or former disbursing official of the agency responsible for a deficiency in an account because of an illegal, improper, or incorrect payment, and credit the account for the deficiency, when the Comptroller General decides that the payment was not the result of bad faith or lack of reasonable care by the official. However, the Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures prescribed by the Comptroller General.

(d)(1) When the Comptroller General decides it is necessary to adjust the account of an official or agent granted relief under sub-

section (a) or (c) of this section, the amount of the relief shall be charged—

(A) to an appropriation specifically provided to be charged; or

(B) if no specific appropriation, to the appropriation or fund available for the expense of the accountable function when the adjustment is carried out.

(2) Subsection (c) of this section does not—

(A) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(B) relieve an accountable official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Relief provided under this section is in addition to relief provided under another law.

SEC. 3528. RESPONSIBILITIES AND RELIEF FROM LIABILITY OF CERTIFYING OFFICIALS.

(a) A certifying official certifying a voucher is responsible for—

(1) information stated in the certificate, voucher, and supporting records;

(2) the computation of a certified voucher under this section and section 3325 of this title;

(3) the legality of a proposed payment under the appropriation or fund involved; and

(4) repaying a payment—

(A) illegal, improper, or incorrect because of an inaccurate or misleading certificate;

(B) prohibited by law; or

(C) that does not represent a legal obligation under the appropriation or fund involved.

(b)(1) The Comptroller General may relieve a certifying official from liability when the Comptroller General decides that—

(A) the certification was based on official records and the official did not know, and by reasonable diligence and inquiry could not have discovered, the correct information; or

(B)(i) the obligation was incurred in good faith;

(ii) no law specifically prohibited the payment; and

(iii) the United States Government received value for payment.

(2) The Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures described by the Comptroller General.

(c) The Comptroller General shall relieve a certifying official from liability for an overpayment—

(1) to a common carrier under section 3726 of this title when the Comptroller General decides the overpayment occurred only because the administrative audit before payment did not verify transportation rates, freight classifications, or land-grant deductions; or

(2) provided under a Government bill of lading or transportation request when the overpayment was the result of using improper transportation rates or classifications or the failure

to deduct the proper amount under a land-grant law or agreement.

(d) This section does not apply to disbursements of a military department of the Department of Defense, except disbursements for departmental pay and expenses in the District of Columbia.

SEC. 3529. REQUEST FOR DECISIONS OF THE COMPTROLLER GENERAL.

(a) A disbursing or certifying official or the head of an agency may request a decision from the Comptroller General on a question involving—

(1) a payment the disbursing official or head of the agency will make; or

(2) a voucher presented to a certifying official for certification.

(b) The Comptroller General shall issue a decision requested under this section.

SEC. 3530. ADJUSTING ACCOUNTS.

(a) An appropriation or fund currently available for the expense of an accountable function shall be charged with an amount necessary to adjust an account of an accountable official or agent when—

(1) necessary to adjust the account for a loss to the United States Government resulting from the fault or negligence of the official or agent; and

(2) the head of the agency decides the loss is uncollectable.

(b) An adjustment does not affect the personal financial liability of an official or agent for the loss.

(c) The Comptroller General shall prescribe regulations to carry out subsection (a) of this section.

(d) Under procedures prescribed by the Comptroller General, the head of an agency may charge the net amount of unpaid and overpaid balances in individual pay accounts against the appropriation for the fiscal year in which the balances occurred and from which the accounts were payable. The net amount shall be credited to and paid from the corresponding appropriation for the next fiscal year.

SEC. 3531. PROPERTY RETURNS.

(a) The head of an executive department—

(1) shall certify to the Comptroller General a charge against an official or agent entrusted with public property for the department resulting from a loss to the United States Government from the property because of fault of the official or agent; and

(2) may not forward the property to the Comptroller General.

(b)(1) A certificate under subsection (a) of this section shall state—

(A) the condition of the property;

(B) that the official or agent has had a reasonable opportunity to be heard but has not been relieved of liability; and

(C) that the certificate includes all charges not certified previously.

(2) The effect of information in the certificate is the same as if the Comptroller General had discovered the information when au-

diting the account. The Comptroller General shall charge the appropriate account for the amount of the loss.

(c) Except as provided in subsection (a) of this section, this section does not affect the way a property return is made or liability for property is decided.

SEC. 3532. NOTIFICATION OF ACCOUNT DEFICIENCIES.

An accounting official discovering a deficiency in an account of an official of the United States Government having custody of public money shall notify the head of the agency having jurisdiction of the official of the kind and amount of the deficiency.

SUBCHAPTER IV—COLLECTION

SEC. 3541. DISTRESS WARRANTS.

(a) When an official receiving public money before it is paid to the Treasury or a disbursing or certifying official of the United States Government does not submit an account or pay the money as prescribed by law, the Comptroller General shall make the account for the official and certify to the Secretary of the Treasury the amount due the Government.

(b) The Secretary shall issue a distress warrant against the official stating the amount due from the official and any amount paid. The warrant shall be directed to the marshal of the district in which the official resides. If the Secretary intends to take and sell the property of an official that is located in a district other than where the official resides, the warrant shall be directed to the marshal of the district in which the official resides and the marshal of the district in which the property is located.

SEC. 3542. CARRYING OUT DISTRESS WARRANTS.

(a) A marshal carrying out a distress warrant issued under section 3541 of this title shall seize the personal property of the official and sell the property after giving 10 days notice of the sale. Notice shall be given by posting an advertisement of the property to be sold in at least 2 public places in the town and county in which the property was taken or the town and county in which the owner of the property resides. If the property does not satisfy the amount due under the warrant, the official may be sent to prison until discharged by law.

(b)(1) The amount due under a warrant is a lien on the real property of the official from the date the distress warrant is issued. The lien shall be recorded in the office of the clerk of the appropriate district court until discharged under law.

(2) If the personal property of the official is not enough to satisfy a distress warrant, the marshal shall sell real property of the official after advertising the property for at least 3 weeks in at least 3 public places in the county or district where the property is located. A buyer of the real property has valid title against all persons claiming under the official.

(c) The official shall receive that part of the proceeds of a sale remaining after the distress warrant is satisfied and the reasonable costs and charges of the sale are paid.

SEC. 3543. POSTPONING A DISTRESS WARRANT PROCEEDING.

(a) A distress warrant proceeding may be postponed for a reasonable time if the Secretary of the Treasury believes the public interest will not be harmed by the postponement.

(b)(1) A person adversely affected by a distress warrant issued under section 3541 of this title may bring a civil action in a district court of the United States. The complaint shall state the kind and extent of the harm. The court may grant an injunction to stay any part of a distress warrant proceeding required by the action after the person applying for the injunction gives a bond in an amount the court prescribes for carrying out a judgment.

(2) An injunction under this subsection does not affect a lien under section 3542(b)(1) of this title. The United States Government is not required to answer in a civil action brought under this subsection.

(3) If the court dissolves the injunction on a finding that the civil action for the injunction was brought only for delay, the court may increase the interest rate imposed on amounts found due against the complainant to not more than 10 percent a year. The judge may grant or dissolve an injunction under this subsection either in or out of court.

(c) A person adversely affected by a refusal to grant an injunction or by dissolving an injunction under subsection (b) of this section may petition a judge of a circuit court of appeals in which the district is located or the Supreme Court justice allotted to that circuit by giving the judge or justice a copy of the proceeding held before the district judge. The judge or justice may grant an injunction or allow an appeal if the judge or justice finds the case requires it.

SEC. 3544. RIGHTS AND REMEDIES OF THE UNITED STATES GOVERNMENT RESERVED.

This subchapter does not affect a right or remedy the United States Government has by law to recover a tax, debt, or demand.

SEC. 3545. CIVIL ACTION TO RECOVER MONEY.

The Attorney General shall bring a civil action to recover an amount due to the United States Government on settlement of the account of a person accountable for public money when the person neglects or refuses to pay the amount to the Treasury. Any commission of that person and interest of 6 percent a year from the time the money is received by the person until repaid to the Treasury shall be added to the amount due on the account. The commission is forfeited when judgment is obtained.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
3511–3513	4 C.F.R. 52
3511–3512	4 C.F.R. 51
3511	4 C.F.R. 75
3511	GAO: Policies and Procedures Manual, Title 2, (Appendices I, II, III), see appendix III GAO: Policies and Procedures Manual, Title 6, see appendix III GAO: Policies and Procedures Manual, Title 7, see appendix III OMB: Circulars A–50, A–123, A–127, see appendix IV TFM, Volume 1, Part 4, Chapters 2000 and 2500, see appendix V

31 U.S.C.	Requirements or Guidelines
	JFMIP: Federal Financial Management System Requirements, see appendix VI
	FASAB, see appendix VII
3512	OMB: Circulars A–123, A–127, see appendix IV, Bulletin 93–06
	TFM, Volume 1, Part 2, Chapter 3300
3512(b)	GAO: Policies and Procedures Manual, Title 2 (Appendix II), see appendix III
	OMB: Circular A–50, see appendix IV
3512(c)	GAO: Policy and Procedures Manual, Title 2, (Appendix I), see appendix III
3512(d)	GAO: Policy and Procedures Manual, Title 2, (Appendix I), see appendix III
	TFM, Volume 1, Part 2, Chapters 1000, 1500, 2000, 3000, 3200, 3900, 4200, 4300, and 4500, see appendix V
	TFM, Volume 1, Part 3, Chapter 2000, see appendix V
	TFM, Volume 1, Part 4, Chapters 2000 and 2500, see appendix V
	TFM, Volume 1, Part 6, Chapters 4000 and 7000, see appendix V
3513a	TFM, Volume 1, Part 2, Chapters 4000, 4100, and 4200, see appendix V
3515	OMB: Bulletins 93–06, 93–18, see appendix IV
3515(d)	OMB: Bulletin 94–01, see appendix IV
3523–3524	4 C.F.R. 82
3521	OMB: Circular A–73, see appendix IV
3523	4 C.F.R. 52
	GAO: Government Auditing Standards: 1994 Revision, see appendix III
3524	OMB Circular A–73, see appendix IV
3526	4 C.F.R. 52, 82
3528	TFM, Volume 1, Part 6, Chapter 6000, see appendix V
3529	4 C.F.R. 52, 82

TITLE 31—MONEY AND FINANCE

Subtitle III—Financial Management

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CHAPTER 37—CLAIMS

SUBCHAPTER I—GENERAL

SEC. 3701. DEFINITIONS AND APPLICATION.

(a) In this chapter—

(1) "administrative offset" means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government;

(2) "calendar quarter" means a 3-month period beginning on January 1, April 1, July 1, or October 1;

(3) "consumer reporting agency" means—

(A) a consumer reporting agency as that term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

(B) a person that, for money or on a cooperative basis, regularly—

(i) gets information on consumers to give the information to a consumer reporting agency; or

(ii) serves as a marketing agent under an arrangement allowing a third party to get the information from a consumer reporting agency;

(4) "executive or legislative agency" means a department, agency, or instrumentality in the executive or legislative branch of the Government;

(5) "military department" means the Departments of the Army, Navy, and Air Force;

(6) "system of records" has the same meaning given that term in section 552a(a)(5) of title 5; and

(7) "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service.

(b) In subchapter II of this chapter, "claim" includes amounts owing on account of loans insured or guaranteed by the Government and other amounts due the Government.

(c) In sections 3716 and 3717 of this title, "person" does not include an agency of the United States Government, of a State government, or of a unit of general local government.

(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal

Revenue Code of 1954 (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f)), or the tariff laws of the United States.

NOTE

United States Senate as Legislative Agency; Regulations Promulgated by Secretary of the Senate

Pub.L. 101–163, Title I, Sec. 11, Nov. 21, 1989, 103 Stat. 1046, provided that:

"(a) For purposes of subchapters I and II of chapter 37 of title 31, United States Code [this chapter] (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

"(b) Regulations prescribed by the Secretary of the Senate pursuant to section 3716 of title 31, United States Code [section 3716 of this title], shall not become effective until they are approved by the Senate Committee on Rules and Administration."

SEC. 3702. AUTHORITY OF THE COMPTROLLER GENERAL TO SETTLE CLAIMS.

(a) Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other.

(b)(1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the Comptroller General within 6 years after the claim accrues except—

(A) as provided in this chapter or another law; or

(B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

(2) When the claim of a member of the armed forces accrues during war or within 5 years before war begins, the claim must be presented to the Comptroller General within 5 years after peace is established or within the period provided in clause (1) of this subsection, whichever is later.

(3) The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required.

(c) One-year limit for check claims.—(1) Any claim on account of a Treasury check shall be barred unless it is presented to the agency that authorized the issuance of such check within 1 year after the date of issuance of the check or the effective date of this subsection, whichever is later.

(2) Nothing in this subsection affects the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(d) The Comptroller General shall report to Congress on a claim against the Government that is timely presented under this section that may not be adjusted by using an existing appropriation, and that the Comptroller General believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the Comptroller General.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

SEC. 3711. COLLECTION AND COMPROMISE.

(a) The head of an executive or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than $100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe that has not been referred to another executive or legislative agency for further collection action; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b) The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.

(c)(1) The head of an executive or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than $500 a penalty under section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters.

(d) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(e) The head of an executive or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General and the Comptroller General may prescribe jointly.

(f)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.),

the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

(A) notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency;

(B) the head of the agency has reviewed the claim and decided that the claim is valid and overdue;

(C) the head of the agency has notified the individual in writing—

(i) that payment of the claim is overdue;

(ii) that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the individual is responsible for the claim;

(iii) of the specific information to be disclosed to the consumer reporting agency; and

(iv) of the rights the individual has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative repeal or review of the claim;

(D) the individual has not—

(i) repaid or agreed to repay the claim under a written repayment plan that the individual has signed and the head of the agency has agreed to; or

(ii) filed for review of the claim under paragraph (2) of this subsection;

(E) the head of the agency has established procedures to—

(i) disclose promptly, to reach consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

(ii) verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and

(iii) get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and

(F) the information disclosed to the consumer reporting agency is limited to—

(i) information necessary to establish the identity of the individual, including name, address, and taxpayer identification number;

(ii) the amount, status, and history of the claim; and

(iii) the agency or program under which the claim arose.

(2) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection and at other times allowed by law, the head of an executive or legislative agency shall provide, on request of an individual alleged by the agency to be responsible for the claim, for a review of the obligation of the individual, including an opportunity for reconsideration of the initial decision on the claim.

(3) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection, the head of an executive or

legislative agency shall take reasonable action to locate an individual for whom the head of the agency does not have a current address to send the notice under paragraph (1)(C).

SEC. 3712. TIME LIMITATIONS FOR PRESENTING CERTAIN CLAIMS OF THE GOVERNMENT.

(a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.—

(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

(A) the end of the 1-year period beginning on the date of payment; or

(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702.

(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an endorser, transferor, depositary, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

SEC. 3713. PRIORITY OF GOVERNMENT CLAIMS.

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

(ii) property of the debtor, if absent, is attached; or

(iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

SEC. 3714. KEEPING MONEY DUE STATES IN DEFAULT.

The Secretary of the Treasury shall keep the necessary amount of money the United States Government owes a State when the State defaults in paying principal or interest on investments in stocks or bonds the State issues or guarantees and that the Government holds in trust. The money shall be used to pay the principal or interest or reimburse, with interest, money the Government advanced for interest due on the stocks or bonds.

SEC. 3715. BUYING REAL PROPERTY OF A DEBTOR.

The head of an agency for whom a civil action is brought against a debtor of the United States Government may buy real property of the debtor at a sale on execution of the real property of the debtor resulting from the action. The head of the agency may not bid more for the property than the amount of the judgment for which the property is being sold, and costs. The marshal of the district in which the sale is held shall transfer the property to the Government.

SEC. 3716. ADMINISTRATIVE OFFSET.

(a) After trying to collect a claim from a person under section 3711(a) of this title, the head of an executive or legislative agency may collect the claim by administrative offset. The head of the agency may collect by administrative offset only after giving the debtor—

(1) written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor under this section;

(2) an opportunity to inspect and copy the records of the agency related to the claim;

(3) an opportunity for a review within the agency of the decision of the agency related to the claim; and

(4) an opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

(b) Before collecting a claim by administrative offset under subsection (a) of this section, the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on—

(1) the best interests of the United States Government;

(2) the likelihood of collecting a claim by administrative offset; and

(3) for collecting a claim by administrative offset after the 6-year period for bringing a civil action on a claim under section

2415 of title 28 has expired, the cost effectiveness of leaving a claim unresolved for more than 6 years.

(c) This section does not apply—

(1) to a claim under this subchapter that has been outstanding for more than 10 years; or

(2) when a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.

SEC. 3717. INTEREST AND PENALTY ON CLAIMS.

(a)(1) The head of an executive or legislative agency shall charge a minimum annual rate of interest on an outstanding debt on a United States Government claim owed by a person that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point. The Secretary of the Treasury shall publish the rate before November 1 of that year. The rate is effective on the first day of the next calendar quarter.

(2) The Secretary may change the rate of interest for a calendar quarter if the average investment rate for the 12-month period ending at the close of the prior calendar quarter, rounded to the nearest whole percentage point, is more or less than the existing published rate by 2 percentage points.

(b) Interest under subsection (a) of this section accrues from the date—

(1) on which notice is mailed after October 25, 1982, if notice was first mailed before October 25, 1982; or

(2) notice of the amount due is first mailed to the debtor at the most current address of the debtor available to the head of the executive or legislative agency, if notice is first mailed after October 24, 1982.

(c) The rate of interest charged under subsection (a) of this section—

(1) is the rate in effect on the date from which interest begins to accrue under subsection (b) of this section; and

(2) remains fixed at that rate for the duration of the indebtedness.

(d) Interest under subsection (a) of this section may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues under subsection (b) of this section. The head of an executive or legislative agency may extend the 30-day period.

(e) The head of an executive or legislative agency shall assess on a claim owed by a person—

(1) a charge to cover the cost of processing and handling a delinquent claim; and

(2) a penalty charge of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due.

(f) Interest under subsection (a) of this section does not accrue on a charge assessed under subsection (e) of this section.

(g) This section does not apply—

(1) if a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest or charges; and

(2) to a claim under a contract executed before October 25, 1982, that is in effect on October 25, 1982.

(h) In conformity with standards prescribed jointly by the Attorney General and the Comptroller General, the head of an executive or legislative agency may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subsections (a) and (e) of this section. A waiver under the regulations is deemed to be compliance with this section.

SEC. 3718. CONTRACTS FOR COLLECTION SERVICES.

(a) Under conditions the head of an executive or legislative agency considers appropriate, the head of the agency may make a contract with a person for collection services to recover indebtedness owed the United States Government. The contract shall provide that—

(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

(2) the person is subject to—

(A) section 552a of title 5, to the extent provided in section 552a(m); and

(B) laws and regulations of the United States Government and State governments related to debt collection practices.

(b)(1)(A) The Attorney General may make contracts retaining private counsel to furnish legal services, including representation in negotiation, compromise, settlement, and litigation, in the case of any claim of indebtedness owed the United States. Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services in the collection of claims of indebtedness, as determined by the Attorney General, considering the amount, age, and nature of the indebtedness and whether the debtor is an individual or a business entity. If the Attorney General makes a contract for legal services to be furnished in any judicial district of the United States under the first sentence of this paragraph, the Attorney General shall use his best efforts to obtain, from among attorneys regularly engaged in the private practice of law in such district, at least four such contracts for legal services with private individuals or firms in such district. Nothing in this subparagraph shall relieve the Attorney General of the competition requirements set forth in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following).

(B) The Attorney General shall use his best efforts to enter into contracts under this paragraph with law firms owned and controlled by socially and economically disadvantaged individuals, so as to enable each agency to comply with paragraph (3).

(2) The head of an executive or legislative agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection claims of indebtedness owed the United States arising out of activities of that agency.

(3) Each agency shall use its best efforts to assure that not less than 10 percent of the amounts of all claims referred to private counsel by that agency under paragraph (2) are referred to law firms owned and controlled by socially and economically disadvantaged individuals. For purposes of this paragraph—

(A) the term "law firm owned and controlled by socially and economically disadvantaged individuals" means a law firm that meets the requirements set forth in clauses (i) and (ii) of section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)(i) and (ii)) and regulations issued under those clauses; and

(B) "socially and economically disadvantaged individuals" shall be presumed to include these groups and individuals described in the last paragraph of section 8(d)(3)(C) of the Small Business Act.

(4) Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

(5) A contract made with a private counsel under paragraph (1) of this subsection shall include—

(A) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government;

(B) a provision stating that the head of the executive or legislative agency which refers a claim under the contract retains the authority to resolve a dispute regarding the claim, to compromise the claim, or to terminate a collection action on the claim; and

(C) a provision requiring the private counsel to transmit monthly to the Attorney General and the head of the executive or legislative agency referring a claim under the contract a report on the services relating to the claim rendered under the contract during the month and the progress made during the month in collecting the claim under the contract.

(6) Notwithstanding the fourth sentence of section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)), a private counsel performing legal services pursuant to a contract made under paragraph (1) of this subsection shall be considered to be a debt collector for the purposes of such Act.

(7) Any counterclaim filed in any action to recover indebtedness owed the United States which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought.

Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

(c) The Attorney General shall transmit to the Congress an annual report on the activities of the Department of Justice to recover indebtedness owed the United States which was referred to the Department of Justice for collection. Each such report shall include a list, by agency, of—

(1) the total number and amounts of claims which were referred for legal services to the Department of Justice and to private counsel under subsection (b) during the 1-year period covered by the report;

(2) the total number and amount of those claims referred for legal services to the Department of Justice which were collected or were not collected or otherwise resolved during the 1-year period covered by the report; and

(3) the total number and amount of those claims referred for legal services to private counsel under subsection (b)—

(A) which were collected or were not collected or otherwise resolved during the 1-year period covered by the report;

(B) which were not collected or otherwise resolved under a contract terminated by the Attorney General during the 1-year period covered by the report; and

(C) on which the Attorney General terminated the private counsel's representation during the 1-year period covered by the report without terminating the contract with the private counsel under which the claims were referred.

(d) Notwithstanding section 3302(b) of this title, a contract under subsection (a) or (b) of this section may provide that a fee a person charges to recover indebtedness owed the United States Government is payable from the amount recovered.

(e) A contract under subsection (a) or (b) of this section is effective only to the extent and in the amount provided in an appropriation law. This limitation does not apply in the case of a contract that authorizes a person to collect a fee as provided in subsection (d) of this section.

(f) This section does not apply to the collection of debts under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.

SEC. 3719. REPORTS ON DEBT COLLECTION ACTIVITIES.

(a) In consultation with the Secretary of the Treasury and the Comptroller General, the Director of the Office of Management and Budget shall prescribe regulations requiring the head of each agency with outstanding debts to prepare and submit to the Director and the Secretary at least once each year a report summarizing the status of loans and accounts receivable managed by the head of the agency. The report shall contain—

(1) information on—

(A) the total amount of loans and accounts receivable owed the agency and when amounts owed the agency are due to be repaid;

(B) the total amount of receivables and number of claims at least 30 days past due;

(C) the total amount written off as actually uncollectible and the total amount allowed for uncollectible loans and accounts receivable;

(D) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(E) the total number of claims and the total amount collected; and

(F) the number and total amount of claims referred to the Attorney General for settlement and the number and total amount of claims the Attorney General settles;

(2) the information described in clause (1) of this subsection for each program or activity the head of the agency carries out; and

(3) other information the Director considers necessary to decide whether the head of the agency is acting aggressively to collect the claims of the agency.

(b) The Director shall analyze the reports submitted under subsection (a) of this section and shall report annually to Congress on the management of debt collection activities by the head of each agency, including the information provided the Director under subsection (a).

SEC. 3720. COLLECTION OF PAYMENTS.

(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

(c) There is established in the Treasury of the United States a revolving fund to be known as the "Cash Management Improvements Fund". Sums in the fund shall be available without fiscal

year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.

SEC. 3720A. REDUCTION OF TAX REFUND BY AMOUNT OF DEBT.

(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.

(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable;

(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts (determined on a government-wide basis) to obtain payment of such debt; and

(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.

(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Commissioner of Social Security is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Commissioner of Social Security shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b). In lieu of payment, pursuant to subsection (c), to the Commissioner of Social Security of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Commissioner of Social Security.

(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.

(h) For purposes of this section—

(1) the term "Federal agency" means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

(2) the term "past-due support" means any delinquency subject to section 464 of the Social Security Act;

(3) the term "OASDI overpayment" means any overpayment of benefits made to an individual under title II of the Social Security Act; and

(4) the term "person" means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association.

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

SEC. 3721. CLAIMS OF PERSONNEL OF AGENCIES AND THE DISTRICT OF COLUMBIA GOVERNMENT FOR PERSONAL PROPERTY DAMAGE OR LOSS.

(a) In this section—

(1) "agency" does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) "head of an agency" means—

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) "settle" means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b)(1) The head of an agency may settle and pay not more than $40,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(2) The Secretary of State may waive the settlement and payment limitation referred to in paragraph (1) for claims for damage or loss by United States Government personnel under the jurisdiction of a chief of mission in a foreign country if such claims arise in circumstances where there is in effect a departure from the country authorized or ordered under circumstances described in section 5522(a) of title 5, if the Secretary determines that there exists exceptional circumstances that warrant such a waiver.

(c) On paying a claim under this section, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against a foreign country for the damage or loss for which the Government made the payment.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if—

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However,

if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency—

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and

(2) may settle and pay the claims by the survivors only in the following order:

(A) the spouse's claim.

(B) a child's claim.

(C) a parent's claim.

(D) a brother's or sister's claim.

(i) Notwithstanding a contract, the representative of a claimant may not receive more than 10 percent of a payment of a claim made under this section for services related to the claim. A person violating this subsection shall be fined not more than $1,000.

(j) The President may prescribe policies to carry out this section (except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard). Subject to those policies, the head of each agency shall prescribe regulations to carry out this section.

(k) Settlement of a claim under this section is final and conclusive.

SEC. 3722. CLAIMS OF OFFICERS AND EMPLOYEES AT GOVERNMENT PENAL AND CORRECTIONAL INSTITUTIONS.

(a) The Attorney General may settle and pay not more than $1,000 in any one case for a claim made by an officer or employee at a United States Government penal or correctional institution for damage to, or loss of, personal property incident to employment.

(b) A claim may not be allowed under this section if the loss occurred at quarters occupied by the claimant that were not assigned or provided in kind by the Government.

(c) A claim may be allowed only if—

(1) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant;

(2) the Attorney General decides that possession of the property was reasonable or useful under the circumstances; and

(3) it is presented in writing within one year after it accrues.

(d) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim.

(e) Necessary amounts are authorized to be appropriated to carry out this section.

SEC. 3723. SMALL CLAIMS FOR PRIVATELY OWNED PROPERTY DAMAGE OR LOSS.

(a) The head of an agency (except a military department of the Department of Defense or the Coast Guard) may settle a claim for not more than $1,000 for damage to, or loss of, privately owned property that—

(1) is caused by the negligence of an officer or employee of the United States Government acting within the scope of employment; and

(2) may not be settled under chapter 171 of title 28.

(b) A claim under this section may be allowed only if it is presented to the head of the agency within one year after it accrues.

(c) A claim under this section may be paid as provided in section 1304 of this title only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

SEC. 3724. CLAIMS FOR DAMAGES CAUSED BY INVESTIGATIVE OR LAW ENFORCEMENT OFFICERS OF THE DEPARTMENT OF JUSTICE.

(a) The Attorney General may settle, for not more than $50,000 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property, caused by an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice acting within the scope of employment that may not be settled under chapter 171 of title 28. An officer or employee of the United States Government may not present a claim arising during the scope of employment. A claim may be allowed only if it is presented to the Attorney General within one year after it accrues.

(b) The Attorney General shall report annually to the Congress on all settlements made under this section. With respect to each such settlement, the Attorney General shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

SEC. 3725. CLAIMS OF NON-NATIONALS FOR PERSONAL INJURY OR DEATH IN A FOREIGN COUNTRY

(a) The Secretary of State may settle, for not more than $1,500 in any one case, a claim for personal injury or death of an individual not a national of the United States in a foreign country in which the United States exercises privileges of extraterritoriality when the injury or death is caused by an officer, employee, or agent of the United States Government (except of a military department of the Department of Defense or the Coast Guard). An officer or employee of the Government may not present a claim. A claim under this section may be allowed only if it is presented to the Secretary within one year after it accrues.

(b) The Secretary shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Secretary shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

SEC. 3726. PAYMENT FOR TRANSPORTATION.

(a) A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government may be paid before the Administrator of General Services conducts an audit, in accordance with regulations that the Administrator shall prescribe. A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

(1) accrual of the claim;

(2) payment for the transportation is made;

(3) refund for an overpayment for the transportation is made; or

(4) a deduction under subsection (b) of this section is made.

(b) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under—

(1) a lawful tariff on file with the Interstate Commerce Commission, the Secretary of Transportation with respect to foreign air transportation (as defined in section 40102(a) of title 49), the Federal Maritime Commission, or a State transportation authority; or

(2) sections 10721–10724 of title 49 or an equivalent arrangement or an exemption.

(c) Expenses of transportation audit postpayment contracts and contract administration, and the expenses of all other transportation audit and audit-related functions conferred upon the Administrator of General Services, shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type refunds, not to exceed collections. Payment to any contractor for audit services shall not exceed 50 percent of the overpayment identified by contract audit.

(d) At least annually, and as determined by the Administrator, after making adequate provision for expense of refunds to carriers, transportation audit postpayment contracts, contract administration, and other expenses authorized in subsection (c), overpayments collected by the General Services Administration shall be transferred to miscellaneous receipts of the Treasury. A report of receipts, disbursements, and transfers (to miscellaneous receipts) pursuant to this section shall be made annually in connection with the budget estimates to the Director of the Office of Management and Budget and to the Congress.

(e) The Administrator may delegate any authority conferred by this section to another agency or agencies if the Administrator determines that such a delegation would be cost-effective or otherwise in the public interest.

(f) Under regulations the head of an agency prescribes that conform with standards the Secretary of the Treasury and the Comptroller General prescribe jointly, a bill under this section may be paid before the transportation is completed notwithstanding section

3324 of this title when a carrier or freight forwarder issues the usual document for the transportation. Payment for transportation ordered but not provided may be recovered by deduction or other means.

(g)(1) A carrier or freight forwarder may request the Comptroller General to review the action of the Administrator if the request is received not later than 6 months (excluding time of war) after the Administrator acts or within the time stated in subsection (a) of this section, whichever is later.

(2) This section does not prevent the Comptroller General from conducting an audit under chapter 35 of this title.

SEC. 3727. ASSIGNMENTS OF CLAIMS.

(a) In this section, "assignment" means—

(1) a transfer or assignment of any part of a claim against the United States Government or of an interest in the claim; or

(2) the authorization to receive payment for any part of the claim.

(b) An assignment may be made only after a claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued. The assignment shall specify the warrant, must be made freely, and must be attested to by 2 witnesses. The person making the assignment shall acknowledge it before an official who may acknowledge a deed, and the official shall certify the assignment. The certificate shall state that the official completely explained the assignment when it was acknowledged. An assignment under this subsection is valid for any purpose.

(c) Subsection (b) of this section does not apply to an assignment to a financing institution of money due or to become due under a contract providing for payments totaling at least $1,000 when—

(1) the contract does not forbid an assignment;

(2) unless the contract expressly provides otherwise, the assignment—

(A) is for the entire amount not already paid;

(B) is made to only one party, except that it may be made to a party as agent or trustee for more than one party participating in the financing; and

(C) may not be reassigned; and

(3) the assignee files a written notice of the assignment and a copy of the assignment with the contracting official or the head of the agency, the surety on a bond on the contract, and any disbursing official for the contract.

(d) During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law, a contract with the Department of Defense, the General Services Administration, the Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission), or other agency the President designates may provide, or may be changed without consideration to provide, that a future payment under the contract to an assignee is not subject to reduction or setoff. A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without a reduction or setoff for liability of the assignor—

(1) to the Government independent of the contract; or

(2) because of renegotiation, fine, penalty (except an amount that may be collected or withheld under, or because the assignor does not comply with, the contract), taxes, social security contributions, or withholding or failing to withhold taxes or social security contributions, arising from, or independent of, the contract.

(e)(1) An assignee under this section does not have to make restitution of, refund, or repay the amount received because of the liability of the assignor to the Government that arises from or is independent of the contract.

(2) The Government may not collect or reclaim money paid to a person receiving an amount under an assignment or allotment of pay or allowances authorized by law when liability may exist because of the death of the person making the assignment or allotment.

SEC. 3728. SETOFF AGAINST JUDGMENT.

(a) The Comptroller General shall withhold paying that part of a judgment against the United States Government presented to the Comptroller General that is equal to a debt the plaintiff owes the Government.

(b) The Comptroller General shall—

(1) discharge the debt if the plaintiff agrees to the setoff and discharges a part of the judgment equal to the debt; or

(2)(A) withhold payment of an additional amount the Comptroller General decides will cover legal costs of bringing a civil action for the debt if the plaintiff denies the debt or does not agree to the setoff; and

(B) have a civil action brought if one has not already been brought.

(c) If the Government loses a civil action to recover a debt or recovers less than the amount the Comptroller General withholds under this section, the Comptroller General shall pay the plaintiff the balance and interest of 6 percent for the time the money is withheld.

SEC. 3729. FALSE CLAIMS.

(a) LIABILITY FOR CERTAIN ACTS.—Any person who—

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and,

intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that—

(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any Government investigation of such violation; and

(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation;

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

(b) KNOWING AND KNOWINGLY DEFINED.—For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information—

(1) has actual knowledge of the information;

(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.

(c) CLAIM DEFINED.—For purposes of this section, "claim" includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(d) EXEMPTION FROM DISCLOSURE.—Any information furnished pursuant to subparagraphs (A) through (C) of subsection (a) shall be exempt from disclosure under section 552 of title 5.

(e) EXCLUSION.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

SEC. 3730. CIVIL ACTIONS FOR FALSE CLAIMS.

(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate a violation under section 3729. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person.

(b) ACTIONS BY PRIVATE PERSONS.—

(1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

(A) proceed with the action, in which case the action shall be conducted by the Government; or

(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

(c) RIGHTS OF THE PARTIES TO QUI TAM ACTIONS.—

(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

(2)(A) The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the

motion and the court has provided the person with an opportunity for a hearing on the motion.

(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

(i) limiting the number of witnesses the person may call;

(ii) limiting the length of the testimony of such witnesses;

(iii) limiting the person's cross-examination of witnesses; or

(iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

(4) Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate

remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(d) AWARD TO QUI TAM PLAINTIFF.—

(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any

relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.

(4) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(e) CERTAIN ACTIONS BARRED.—

(1) No court shall have jurisdiction over an action brought by a former or present member of the armed forces under subsection (b) of this section against a member of the armed forces arising out of such person's service in the armed forces.

(2)(A) No court shall have jurisdiction over an action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

(B) For purposes of this paragraph, "senior executive branch official" means any officer or employee listed in paragraphs (1) through (8) of section 101(f) of the Ethics in Government Act of 1978 (5 U.S.C.App.).

(3) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

(4)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

(B) For purposes of this paragraph, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

(f) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

(g) FEES AND EXPENSES TO PREVAILING DEFENDANT.—In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28 shall apply.

(h) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in

the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

SEC. 3731. FALSE CLAIMS PROCEDURE.

(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under section 3730 of this title may be served at any place in the United States.

(b) A civil action under section 3730 may not be brought—

(1) more than 6 years after the date on which the violation of section 3729 is committed, or

(2) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

(c) In any action brought under section 3730, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(d) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of section 3730.

SEC. 3732. FALSE CLAIMS JURISDICTION.

(a) ACTIONS UNDER SECTION 3730.—Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 3729 occurred. A summons as required by the Federal Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

(b) CLAIMS UNDER STATE LAW.—The district courts shall have jurisdiction over any action brought under the laws of any State for the recovery of funds paid by a State or local government if the action arises from the same transaction or occurrence as an action brought under section 3730.

SEC. 3733. CIVIL INVESTIGATIVE DEMANDS.

(a) IN GENERAL.—

(1) ISSUANCE AND SERVICE.—Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General may, before commencing a civil proceeding under section 3730 or other false claims law, issue in writing and cause to be served upon such person, a civil investigative demand requiring such person—

(A) to produce such documentary material for inspection and copying,

(B) to answer in writing written interrogatories with respect to such documentary material or information,

(C) to give oral testimony concerning such documentary material or information, or

(D) to furnish any combination of such material, answers, or testimony.

The Attorney General may not delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

(2) CONTENTS AND DEADLINES.—

(A) Each civil investigative demand issued under paragraph (1) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

(B) If such demand is for the production of documentary material, the demand shall—

(i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;

(ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

(iii) identify the false claims law investigator to whom such material shall be made available.

(C) If such demand is for answers to written interrogatories, the demand shall—

(i) set forth with specificity the written interrogatories to be answered;

(ii) prescribe dates at which time answers to written interrogatories shall be submitted; and

(iii) identify the false claims law investigator to whom such answers shall be submitted.

(D) If such demand is for the giving of oral testimony, the demand shall—

(i) prescribe a date, time, and place at which oral testimony shall be commenced;

(ii) identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;

(iii) specify that such attendance and testimony are necessary to the conduct of the investigation;

(iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

(v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(E) Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the discovery was obtained.

(F) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven days after the date on which demand is received, unless the Attorney General or an Assistant Attorney General designated by the Attorney General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

(G) The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary. The Attorney General may not, notwithstanding section 510 of title 28, authorize the performance, by any other officer, employee, or agency, of any function vested in the Attorney General under this subparagraph.

(b) PROTECTED MATERIAL OR INFORMATION.—

(1) IN GENERAL.—A civil investigative demand issued under subsection (a) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under—

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States to aid in a grand jury investigation; or

(B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

(2) EFFECT ON OTHER ORDERS, RULES, AND LAWS.—Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law

(other than this section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(c) SERVICE; JURISDICTION.—

(1) BY WHOM SERVED.—Any civil investigative demand issued under subsection (a) may be served by a false claims law investigator, or by a United States marshal or a deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

(2) SERVICE IN FOREIGN COUNTRIES.—Any such demand or any petition filed under subsection (j) may be served upon any person who is not found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over any such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with the section by any such person that such court would have if such person were personally within the jurisdiction of such court.

(d) SERVICE UPON LEGAL ENTITIES AND NATURAL PERSONS.—

(1) LEGAL ENTITIES.—Service of any civil investigative demand issued under subsection (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity by—

(A) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(B) delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(C) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(2) NATURAL PERSONS.—Service of any such demand or petition may be made upon any natural person by—

(A) delivering an executed copy of such demand or petition to the person; or

(B) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(e) PROOF OF SERVICE.—A verified return by the individual serving any civil investigative demand issued under subsection (a) or

any petition filed under subsection (j) setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(f) DOCUMENTARY MATERIAL.—

(1) SWORN CERTIFICATES.—The production of documentary material in response to a civil investigative demand served under this section shall be made under a sworn certificate, in such form as the demand designates, by—

(A) in the case of a natural person, the person to whom the demand is directed, or

(B) in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to such production and authorized to act on behalf of such person.

The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand.

(2) PRODUCTION OF MATERIALS.—Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (j)(1). Such material shall be made so available on the return date specified in such demand, or on such later date as the false claims law investigator may prescribe in writing. Such person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

(g) INTERROGATORIES.—Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under a sworn certificate, in such form as the demand designates, by—

(1) in the case of a natural person, the person to whom the demand is directed, or

(2) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(h) ORAL EXAMINATIONS.—

(1) PROCEDURES.—The examination of any person pursuant to a civil investigative demand for oral testimony served under this section shall be taken before an officer authorized to ad-

minister oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and shall be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection shall not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Federal Rules of Civil Procedure.

(2) PERSONS PRESENT.—The false claims law investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney for the Government, any person who may be agreed upon by the attorney for the Government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(3) WHERE TESTIMONY TAKEN.—The oral testimony of any person taken pursuant to a civil investigative demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the false claims law investigator conducting the examination and such person.

(4) TRANSCRIPT OF TESTIMONY.—When the testimony is fully transcribed, the false claims law investigator or the officer before whom the testimony is taken shall afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the false claims law investigator, with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being afforded a reasonable opportunity to examine it, the officer or the false claims law investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons, if any, given therefor.

(5) CERTIFICATION AND DELIVERY TO CUSTODIAN.—The officer before whom the testimony is taken shall certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims law investigator shall promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(6) FURNISHING OR INSPECTION OF TRANSCRIPT BY WITNESS.—Upon payment of reasonable charges therefor, the false claims law investigator shall furnish a copy of the transcript to the witness only, except that the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may, for good cause, limit such witness to inspection of the official transcript of the witness' testimony.

(7) CONDUCT OF ORAL TESTIMONY.—

(A) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (a) may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, a petition may be filed in the district court of the United States under subsection (j)(1) for an order compelling such person to answer such question.

(B) If such person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18.

(8) WITNESS FEES AND ALLOWANCES.—Any person appearing for oral testimony under a civil investigative demand issued under subsection (a) shall be entitled to the same fees and allowances which are paid to witnesses in the district courts of the United States.

(i) CUSTODIANS OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS.—

(1) DESIGNATION.—The Attorney General shall designate a false claims law investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate such additional false claims law investigators as the Attorney General determines from time to time to be necessary to serve as deputies to the custodian.

(2) RESPONSIBILITY FOR MATERIALS; DISCLOSURE.—

(A) A false claims law investigator who receives any documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the custodian. The custodian shall take physical possession of such material, answers, or transcripts and shall be responsible for the use made of them and for the return of documentary material under paragraph (4).

(B) The custodian may cause the preparation of such copies of such documentary material, answers to interrog-

atories, or transcripts of oral testimony as may be required for official use by any false claims law investigator, or other officer or employee of the Department of Justice, who is authorized for such use under regulations which the Attorney General shall issue. Such material, answers, and transcripts may be used by any such authorized false claims law investigator or other officer or employee in connection with the taking of oral testimony under this section.

(C) Except as otherwise provided in this subsection, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than a false claims law investigator or other officer or employee of the Department of Justice authorized under subparagraph (B). The prohibition in the preceding sentence on the availability of material, answers, or transcripts shall not apply if consent is given by the person who produced such material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for such material, consent is given by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent disclosure to the Congress, including any committee or subcommittee of the Congress, or to any other agency of the United States for use by such agency in furtherance of its statutory responsibilities. Disclosure of information to any such other agency shall be allowed only upon application, made by the Attorney General to a United States district court, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities.

(D) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe—

(i) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and

(ii) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.

(3) USE OF MATERIAL, ANSWERS, OR TRANSCRIPTS IN OTHER PROCEEDINGS.—Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return

to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.

(4) CONDITIONS FOR RETURN OF MATERIAL.—If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this section, and—

(A) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any Federal agency involving such material, has been completed, or

(B) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the false claims law investigator under subsection (f)(2) or made for the Department of Justice under paragraph (2)(B) which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.

(5) APPOINTMENT OF SUCCESSOR CUSTODIANS.—In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this section, or in the event of the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Attorney General shall promptly—

(A) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts, and

(B) transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.

Any person who is designated to be a successor under this paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.

(j) JUDICIAL PROCEEDINGS.—

(1) PETITION FOR ENFORCEMENT.—Whenever any person fails to comply with any civil investigative demand issued under subsection (a), or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition

for an order of such court for the enforcement of the civil investigative demand.

(2) PETITION TO MODIFY OR SET ASIDE DEMAND.—

(A) Any person who has received a civil investigative demand issued under subsection (a) may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending. Any petition under this subparagraph must be filed—

(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(3) PETITION TO MODIFY OR SET ASIDE DEMAND FOR PRODUCT OF DISCOVERY.—

(A) In the case of any civil investigative demand issued under subsection (a) which is an express demand for any product of discovery, the person from whom such discovery was obtained may file, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any false claims law investigator identified in the demand and upon the recipient of the demand, a petition for an order of such court to modify or set aside those portions of the demand requiring production of any such product of discovery. Any petition under this subparagraph must be filed—

(i) within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or

(ii) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.

(B) The petition shall specify each ground upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

(4) PETITION TO REQUIRE PERFORMANCE BY CUSTODIAN OF DUTIES.—At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (a), such person, and in the case of an express demand for any product of discovery, the person from whom such discovery was obtained, may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court to require the performance by the custodian of any duty imposed upon the custodian by this section.

(5) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this subsection, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section. Any final order so entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of the court.

(6) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—The Federal Rules of Civil Procedure shall apply to any petition under this subsection, to the extent that such rules are not inconsistent with the provisions of this section.

(k) DISCLOSURE EXEMPTION.—Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (a) shall be exempt from disclosure under section 552 of title 5.

(l) DEFINITIONS.—For purposes of this section—

(1) the term "false claims law" means—

(A) this section and sections 3729 through 3732; and

(B) any Act of Congress enacted after the date of the enactment of this section which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to, any false claim against, bribery of, or corruption of any officer or employee of the United States;

(2) the term "false claims law investigation" means any inquiry conducted by any false claims law investigator for the

purpose of ascertaining whether any person is or has been engaged in any violation of a false claims law;

(3) the term "false claims law investigator" means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the United States acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation;

(4) the term "person" means any natural person, partnership, corporation, association, or other legal entity, including any State or political subdivision of a State;

(5) the term "documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;

(6) the term "custodian" means the custodian, or any deputy custodian, designated by the Attorney General under subsection (i)(1); and

(7) the term "product of discovery" includes—

(A) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(B) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (A); and

(C) any index or other manner of access to any item listed in subparagraph (A).

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
3701 et seq	34 C.F.R. 198, 204, 296; 44 C.F.R. 11
3701–3731	45 C.F.R. 30
3701–3720A	49 C.F.R. 89
3701–3719	10 C.F.R. 15, 1015; 12 C.F.R. 608, 1408; 22 C.F.R. 34, 309; 29 C.F.R. 1450; 41 C.F.R. 105–55
3701	7 C.F.R. 3, 792, 17 C.F.R. 204; 22 C.F.R. 512; 29 C.F.R. 2609; 31 C.F.R. 5, 390, 391; 32 C.F.R. 842; 38 C.F.R. 1; 47 C.F.R. 1; 49 C.F.R. 1018
3702	4 C.F.R. 30, 31, 35, 36
3710	32 C.F.R. 518
3711 et seq	4 C.F.R. 102; 22 C.F.R. 512; 29 C.F.R. 20; 40 C.F.R. 13; 44 C.F.R. 11; 47 C.F.R. 1; 49 C.F.R. 1018
3711–3719	38 C.F.R. 1
3711	4 C.F.R. 101, 103–105; 7 C.F.R. 3, 1956, 3711; 10 C.F.R. 16; 17 C.F.R. 204; 22 C.F.R. 1506; 24 C.F.R. 17; 31 C.F.R. 5, 240, 390, 391; 34 C.F.R. 30, 31; 42 C.F.R. 405, 408; 45 C.F.R. 31, 708, 1177; 49 C.F.R. 1 OMB: Circular 50, see appendix IV
3713	19 C.F.R. 141
3716 et seq	30 C.F.R. 207, 210, 230
3716–3719	7 C.F.R. 3, 792; 45 C.F.R. 1177
3716–3718	10 C.F.R. 16; 24 C.F.R. 17

31 U.S.C.	Requirements or Guidelines
3716–3717	31 C.F.R. 240
3716	15 C.F.R. 21; 17 C.F.R. 204; 20 C.F.R. 367; 24 C.F.R. 17; 29 C.F.R. 2609; 30 C.F.R. 216, 218; 31 C.F.R. 5, 390; 34 C.F.R. 30–32; 45 C.F.R. 31, 608; 49 C.F.R. 1017 OMB: Circular 50, see appendix IV
3717–3718	34 C.F.R. 30
3717	12 C.F.R. 701; 15 C.F.R. 4, 60; 24 C.F.R. 17; 28 C.F.R. 16, 505; 31 C.F.R. 391 OMB: Circular 50, see appendix IV
3718	17 C.F.R. 204; 24 C.F.R. 17; 28 C.F.R. 11; 45 C.F.R. 31, 608
3719	OMB: Circular A–50, appendix IV
3720	31 C.F.R. 5, 206 OMB: Circular A–129, see appendix IV TFM, Volume 1, Part 6, Chapter 8000, see appendix V
3720A	5 C.F.R. 835; 7 C.F.R. 3, 1951; 10 C.F.R. 1018; 13 C.F.R. 140; 15 C.F.R. 19; 17 C.F.R. 204; 20 C.F.R. 366; 22 C.F.R. 139, 309; 24 C.F.R. 17; 26 C.F.R. 301; 28 C.F.R. 11; 9 C.F.R. 1650, 2609; 30 C.F.R. 216, 218, 230; 1 C.F.R. 5; 34 C.F.R. 30; 40 C.F.R. 13; 41 C.F.R. 105–57; 45 C.F.R. 31, 608 TFM, Volume 1, Part 5, Chapters 4600 and 4700, see appendix V
3721	14 C.F.R. 1261; 24 C.F.R. 17; 31 C.F.R. 4; 32 C.F.R. 842; 38 C.F.R. 14; 40 C.F.R. 14; 44 C.F.R. 11; 46 C.F.R. 501
3726	41 C.F.R. 101–41
3728	7 C.F.R. 3, 792, OMB: Circular A–50, see appendix IV
3729–3731	38 C.F.R. 21
3729	32 C.F.R. 516

TITLE 31—MONEY AND FINANCE

Subtitle III—Financial Management

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CHAPTER 39—PROMPT PAYMENT

SEC. 3901. DEFINITIONS AND APPLICATION.

(a) In this chapter—

(1) "agency" has the same meaning given that term in section 551(1) of title 5 and includes an entity being operated, and the head of the agency identifies the entity as being operated, only as an instrumentality of the agency to carry out a program of the agency.

(2) "business concern" means—

(A) a person carrying on a trade or business; and

(B) a nonprofit entity operating as a contractor.

(3) "proper invoice" is an invoice containing or accompanied by substantiating documentation the Director of the Office of Management and Budget may require by regulation and the head of the appropriate agency may require by regulation or contract.

(4) for the purposes of determining a payment due date and the date upon which any late payment interest penalty shall begin to accrue, the head of the agency is deemed to receive an invoice—

(A) on the later of—

(i) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

(ii) on the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or performance of the services is actually completed, as the case may be, unless—

(I) the agency has actually accepted such property or services before such 7th day; or

(II) the contract (except in the case of a contract for the procurement of a brand-name commercial item for authorized resale) specifies a longer acceptance period, as determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed; or

(B) on the date of the invoice, if the agency has failed to annotate the invoice with the date of receipt at the time

of actual receipt by the place or person designated by the agency to first receive such invoice.

(5) a payment is deemed to be made on the date a check for payment is dated or an electronic fund transfer is made.

(6) a contract to rent property is deemed to be a contract to acquire the property.

(b) This chapter applies to the Tennessee Valley Authority. However, regulations prescribed under this chapter do not apply to the Authority, and the Authority alone is responsible for carrying out this chapter as it applies to contracts of the Authority.

(c) This chapter, except section 3906 of this title, applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.

SEC. 3902. INTEREST PENALTIES.

(a) Under regulations prescribed under section 3903 of this title, the head of an agency acquiring property or service from a business concern, who does not pay the concern for each complete delivered item of property or service by the required payment date, shall pay an interest penalty to the concern on the amount of the payment due. The interest shall be computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty.

(b) Except as provided in section 3906 of this title, the interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.

(c)(1) A business concern shall be entitled to an interest penalty of $1.00 or more which is owed such business concern under this section, and such penalty shall be paid without regard to whether the business concern has requested payment of such penalty.

(2) Each payment subject to this chapter for which a late payment interest penalty is required to be paid shall be accompanied by a notice stating the amount of the interest penalty included in such payment and the rate by which, and period for which, such penalty was computed.

(3) If a business concern—

(A) is owed an interest penalty by an agency;

(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due;

(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to an amount equal to the sum of the late payment interest penalty to which the contractor is entitled and an additional penalty equal to a percentage of such

late payment interest penalty specified by regulation by the Director of the Office of Management and Budget, subject to such maximum as may be specified in such regulations.

(d) The temporary unavailability of funds to make a timely payment due for property or services does not relieve the head of an agency from the obligation to pay interest penalties under this section.

(e) An amount of an interest penalty unpaid after any 30-day period shall be added to the principal amount of the debt, and a penalty accrues thereafter on the added amount.

(f) This section does not authorize the appropriation of additional amounts to pay an interest penalty. The head of an agency shall pay a penalty under this section out of amounts made available to carry out the program for which the penalty is incurred.

(g) A recipient of a grant from the head of an agency may provide in a contract for the acquisition of property or service from a business concern that, consistent with the usual business practices of the recipient and applicable State and local law, the recipient will pay an interest penalty on amounts overdue under the contract under conditions agreed to by the recipient and the concern. The recipient may not pay the penalty from amounts received from an agency. Amounts expended for the penalty may not be counted toward a matching requirement applicable to the grant. An obligation to pay the penalty is not an obligation of the United States Government.

(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714b(h)).

(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made by the required payment or loan closing date. The interest penalty shall be paid—

(i) on the amount of payment or loan due; and

(ii) for the period beginning on the first day beginning after the required payment or loan closing date and ending on the date the amount is paid or loaned.

(B) As used in this subsection, the "required payment or loan closing date" means—

(i) for a purchase agreement, the 30th day after delivery of the warehouse receipt for the commodity subject to the purchase agreement;

(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;

(iii) for refund of amounts received greater than the amount required to repay a commodity loan, the first business day after the Commodity Credit Corporation receives payment for such loan;

(iv) for land diversion payments (other than advance payments), the 30th day beginning after the date of completion of the production adjustment contract by the producer;

(v) for an advance land diversion payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer;

(vi) for a deficiency payment (other than advance payments) based upon a 12-month or 5-month period, 91 days after the end of such period; or

(vii) for an advance deficiency payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer.

(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948 (15 U.S.C. 714f).

(4) Section 3907 of this title shall not apply to interest penalty payments made under this subsection.

SEC. 3903. REGULATIONS.

(a) The Director of the Office of Management and Budget shall prescribe regulations to carry out section 3902 of this title. The regulations shall—

(1) provide that the required payment date is—

(A) the date payment is due under the contract for the item of property or service provided; or

(B) 30 days after a proper invoice for the amount due is received if a specific payment date is not established by contract;

(2) for the acquisition of meat or a meat food product (as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3)), including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, or of fresh or frozen fish (as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), provide a required payment date of not later than 7 days after the meat, meat food product, or fish is delivered; and

(3) for the acquisition of a perishable agricultural commodity (as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4))), provide a required payment date consistent with that Act;

(4) for the acquisition of dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), the acquisition of edible fats or oils, and the acquisition of food products prepared from edible fats or oils, provide a required payment date of not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products;

(5) require periodic payments, in the case of a property or service contract which does not prohibit periodic payments for partial deliveries or other contract performance during the contract period, upon—

(A) submission of an invoice for property delivered or services performed during the contract period, if an invoice is required by the contract; and

(B) either—

(i) acceptance of the property or services by an employee of an agency authorized to accept the property or services; or

(ii) the making of a determination by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract;

(6) in the case of a construction contract, provide for the payment of interest on—

(A) a progress payment (including a monthly percentage-of-completion progress payment or milestone payments for completed phases, increments, or segments of any project) that is approved as payable by the agency pursuant to subsection (b) of this section and remains unpaid for—

(i) a period of more than 14 days after receipt of the payment request by the place or person designated by the agency to first receive such requests; or

(ii) a longer period, specified in the solicitation, if required to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract; and

(B) any amounts which the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a contractor and that are approved for release to the contractor, if such retained amounts are not paid to the contractor by a date specified in the contract or, in the absence of such a specified date, by the 30th day after final acceptance;

(7) require that—

(A) each invoice be reviewed as soon as practicable after receipt for the purpose of determining that such an invoice is a proper invoice within the meaning of section 3901(a)(3) of this title;

(B) any invoice determined not to be such a proper invoice suitable for payment shall be returned as soon as practicable, but not later than 7 days, after receipt, specifying the reasons that the invoice is not a proper invoice; and

(C) the number of days available to an agency to make a timely payment of an invoice without incurring an interest penalty shall be reduced by the number of days by which an agency exceeds the requirements of subparagraph (B) of this paragraph;

(8) permit an agency to make payment up to 7 days prior to the required payment date, or earlier as determined by the agency to be necessary on a case-by-case basis; and

(9) prescribe the methods for computing interest under section 3903(c) of this title.

(b)(1) A payment request may not be approved under subsection (a)(6)(A) of this section unless the application for such payment includes—

(A) substantiation of the amounts requested; and

(B) a certification by the prime contractor, to the best of the contractor's knowledge and belief, that—

(i) the amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(ii) payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this chapter; and

(iii) the application does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

(2) The agency shall return any such payment request which is defective to the contractor within 7 days after receipt, with a statement identifying the defect.

(c)(1) The contracting officer shall—

(A) compute the interest which a contractor shall be obligated to pay under sections 3905(a)(2) and 3905(e)(6) of this title on the basis of the average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the contractor received the unearned amount; and

(B) deduct the interest amount determined under subparagraph (A) of this paragraph from the next available payment to the contractor.

(2) Amounts deducted from payments to contractors under paragraph (1)(B) shall revert to the Treasury.

SEC. 3904. LIMITATIONS ON DISCOUNT PAYMENTS.

The head of an agency offered a discount by a business concern from an amount due under a contract for property or service in exchange for payment within a specified time may pay the discounted amount only if payment is made within the specified time. For the purpose of the preceding sentence, the specified time shall be determined from the date of the invoice. The head of the agency shall pay an interest penalty on an amount remaining unpaid in violation of this section. The penalty accrues as provided under sections 3902 and 3903 of this title, except that the required payment date for the unpaid amount is the last day specified in the contract that the discounted amount may be paid.

SEC. 3905. PAYMENT PROVISIONS RELATING TO CONSTRUCTION CONTRACTS.

(a) In the event that a contractor, after making a certified payment request to an agency pursuant to section 3903(b) of this title, discovers that a portion or all of such payment request constitutes a payment for performance by such contractor that fails to conform to the specifications, terms, and conditions of its contract (hereafter in this subsection referred to as the "unearned amount"), then the contractor shall—

(1) notify the agency of such performance deficiency; and

(2) be obligated to pay the Government an amount equal to interest on the unearned amount (computed in the manner

provided in section 3903(c) of this title), from the date of the contractor's receipt of such unearned amount until—

(A) the date the contractor notifies the agency that the performance deficiency has been corrected; or

(B) the date the contractor reduces the amount of any subsequent certified application for payment to such agency by an amount equal to the unearned amount.

(b) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract—

(1) a payment clause which obligates the prime contractor to pay the subcontractor for satisfactory performance under its subcontract within 7 days out of such amounts as are paid to the prime contractor by the agency under such contract; and

(2) an interest penalty clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1) of this subsection—

(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(B) computed at the rate specified by section 3902(a) of this title.

(c) The construction contract awarded by the agency shall further require the prime contractor to include in each of its subcontracts (for the purpose of performance of such construction contract) a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of subsection (b) of this section in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) The clauses required by subsections (b) and (c) of this section shall not be construed to impair the right of a prime contractor or a subcontractor at any tier to negotiate, and to conclude in their subcontract, provisions which—

(1) permit the prime contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract, without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) permit the contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) permit such withholding without incurring any obligation to pay a late payment penalty if—

(A) a notice conforming to the standards of subsection (g) of this section has been previously furnished to the subcontractor; and

(B) a copy of any notice issued by a prime contractor pursuant to subparagraph (A) of this paragraph has been furnished to the Government.

(e) If a prime contractor, after making application to an agency for payment under a contract but before making a payment to a subcontractor for the subcontractor's performance covered by such application, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the prime contractor shall—

(1) furnish to the subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) furnish to the Government, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (1) of this subsection;

(3) reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (1) of this subsection;

(4) pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

(A) make such payment within—

(i) 7 days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (5)(A)); or

(ii) 7 days after the contractor recovers such funds from the Government; or

(B) incur an obligation to pay a late payment interest penalty computed at the rate specified by section 3902(a) of this title;

(5) notify the Government, upon—

(A) reduction of the amount of any subsequent certified application for payment; or

(B) payment to the subcontractor of any withheld amounts of a progress payment, specifying—

(i) the amounts of the progress payments withheld under paragraph (1) of this subsection; and

(ii) the dates that such withholding began and ended; and

(6) be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in section 3903(c) of this title), from the 8th day after receipt of the withheld amounts from the Government until—

(A) the day the identified subcontractor performance deficiency is corrected; or

(B) the date that any subsequent payment is reduced under paragraph (5)(A).

(f)(1) If a prime contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the prime contractor may be ultimately liable, and the prime contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, then the prime contractor may, without incurring an obligation to pay an interest penalty under subsection (e)(6) of this section—

(A) furnish to the first-tier subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon making such determination; and

(B) withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (A) of this paragraph.

(2) As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the prime contractor shall pay the amount withheld under paragraph (1)(B) of this subsection to such first-tier subcontractor, or shall incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate specified by section 3902(a) of this title.

(g) A written notice of any withholding shall be issued to a subcontractor (with a copy to the Government of any such notice issued by a prime contractor), specifying—

(1) the amount to be withheld;

(2) the specific causes for the withholding under the terms of the subcontract; and

(3) the remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) A prime contractor may not request payment from the agency of any amount withheld or retained in accordance with subsection (d) of this section until such time as the prime contractor has determined and certified to the agency that the subcontractor is entitled to the payment of such amount.

(i) A dispute between a contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to subsection (b) or (c) of this section does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Except as provided in subsection (i) of this section, this section shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to a contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by a prime contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) A contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under

subsection (b) or (c) of this section may not be construed to be an obligation of the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.

SEC. 3906. REPORTS.

(a)(1) By the 60th day after the end of the fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on the agency's payment practices during that fiscal year, including a description of the extent to which those practices satisfy the requirements of this chapter.

(2) In addition to such other information as may be required by the Director, the report required by paragraph (1) shall include—

(A) the number, dollar value, and percentage of invoices for which interest or other late payment penalties were paid, the amount of such late payment interest and other penalties, and the reasons the interest penalties were not avoided by prompt payment; and

(B) the number, dollar value, and percentage of invoices paid after the required payment date without payment of an interest penalty or other late payment penalty, and the reasons no obligation to pay such penalties was incurred with respect to such invoices or no amount for such penalties were included in the payments of such invoices.

(b) By the 120th day after the end of each fiscal year, the Director shall submit to the Committees on Governmental Affairs, Appropriations, and Small Business of the Senate and the Committees on Government Operations, Appropriations, and Small Business of the House of Representatives a report on agency compliance with this chapter. The report shall include a summary of the report of each agency submitted under subsection (a) of this section and an analysis of progress made in reducing interest penalty payments by that agency from prior years.

SEC. 3907. RELATIONSHIP TO OTHER LAWS.

(a) A claim for an interest penalty not paid under this chapter may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605).

(b)(1) An interest penalty under this chapter does not continue to accrue—

(A) after a claim for a penalty is filed under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.); or

(B) for more than one year.

(2) Paragraph (1) of this subsection does not prevent an interest penalty from accruing under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after a penalty stops accruing under this chapter. A penalty accruing under section 12 may accrue on an unpaid contract payment and on the unpaid penalty under this chapter.

(c) Except as provided in section 3904 of this title, this chapter does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a business concern over the amount of payment or compliance with the con-

tract. A claim related to the dispute, and interest payable for the period during which the dispute is being resolved, is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

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The following list shows the section of 31 U.S.C. and the related requirements of guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
3901–3906	48 C.F.R. 2432
3903(a)	OMB: Circular A–125, see appendix IV

TITLE 31—MONEY AND FINANCE

Subtitle V—General Assistance Administration

* * * * * * *

CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

SEC. 7501. DEFINITIONS.

As used in this chapter, the term—

(1) "cognizant agency" means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.

(2) "Comptroller General" means the Comptroller General of the United States.

(3) "Director" means the Director of the Office of Management and Budget.

(4) "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

(5) "Federal agency" has the same meaning as the term "agency" in section 551(1) of title 5, United States Code.

(6) "generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

(7) "generally accepted government auditing standards" means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

(8) "independent auditor" means—

(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

(B) a public accountant who meets such independence standards.

(9) "internal controls" means the plan of organization and methods and procedures adopted by management to ensure that—

(A) resource use is consistent with laws, regulations, and policies;

(B) resources are safeguarded against waste, loss and misuse; and

(C) reliable data are obtained, maintained, and fairly disclosed in reports.

(10) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) "local government" means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

(12) "major Federal assistance program" means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed—

(A) $20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $7,000,000,000;

(B) $19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $6,000,000,000 but are less than or equal to $7,000,000,000;

(C) $16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $5,000,000,000 but are less than or equal to $6,000,000,000;

(D) $13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $4,000,000,000 but are less than or equal to $5,000,000,000;

(E) $10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $3,000,000,000 but are less than or equal to $4,000,000,000;

(F) $7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $2,000,000,000 but are less than or equal to $3,000,000,000;

(G) $4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $2,000,000,000;

(H) $3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $1,000,000,000; and

(I) the larger of (i) $300,000, or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed $100,000 but are less than or equal to $100,000,000.

(13) "public accountants" means those individuals who meet the qualification standards included in generally accepted gov-

ernment auditing standards for personnel performing government audits.

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

(15) "subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

SEC. 7502. AUDIT REQUIREMENTS; EXEMPTIONS.

(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of $100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of $25,000 but less than $100,000 in any fiscal year of such government shall—

(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

(C) Each State and local government that receives a total amount of Federal financial assistance which is less than $25,000 in any fiscal year of such government shall be exempt for such fiscal year from compliance with—

(i) the audit requirements of this chapter; and

(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Comptroller General access to such records.

(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

(2) If a State or local government is required—

(A) by constitution or statute, as in effect on October 19, 1984, or

(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on October 19, 1984,

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

(B) such audit may exclude public hospitals and public colleges and universities.

(2) Each such audit shall encompass the entirety of the financial operation of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

(ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program.

In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

(5) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

(6) Redesignated (5)

(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides $25,000 or more of such assistance in any fiscal year to a subrecipient, shall—

(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter—

(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government.

(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.

(f) The report made on any audit conducted pursuant to this section shall, within thirty days after completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2),

the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c) of this title.

SEC. 7503. RELATION TO OTHER AUDIT REQUIREMENTS.

(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provided a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

SEC. 7504. COGNIZANT AGENCY RESPONSIBILITIES.

(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

(b) A cognizant agency shall—

(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

(3) (A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and

(B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

SEC. 7505. REGULATIONS.

(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

SEC. 7506. MONITORING RESPONSIBILITIES OF THE COMPTROLLER GENERAL.

The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

(1) the committee that reported such bill or resolution; and

(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

SEC. 7507. EFFECTIVE DATE; REPORT.

(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
7500 et seq	29 C.F.R. 96
7501 et seq	15 C.F.R. 299; 34 C.F.R. 298, 401; 38 C.F.R. 41; 39 C.F.R. 204
7501–7507	24 C.F.R. 44
7501	43 C.F.R. 12
	GAO: Government Auditing Standards: 1994 Revision, see appendix III
7503	7 C.F.R. 3015; 44 C.F.R. 14; 45 C.F.R. 74
	GAO: Government Auditing Standards: 1994 Revision, see appendix III
7505	GAO: Government Auditing Standards: 1994 Revision, see appendix III
	OMB: Circular A–128, see appendix IV

TITLE 31—MONEY AND FINANCE

Subtitle VI—Miscellaneous

* * * * * * *

CHAPTER 91—GOVERNMENT CORPORATIONS

SEC. 9101. DEFINITIONS.

In this chapter—

(1) "Government corporation" means a mixed-ownership Government corporation and a wholly owned Government Corporation.

(2) "mixed-ownership Government corporation means—

(A) Amtrack.

(B) the Central Bank for Cooperatives.

(C) the Federal Deposit Insurance Corporation.

(D) the Federal Home Loan Banks.

(E) the Federal Intermediate Credit Banks.

(F) the Federal Land Banks.

(G) the National Credit Union Administration Central Liquidity Facility.

(H) the Regional Banks for Cooperatives.

(I) the Rural Telephone Bank when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(J) the United States Railway Association.

(K) the Financing Corporation.

(L) the Resolution Trust Corporation.

(M) the Resolution Funding Corporation.

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TITLE 31—MONEY AND FINANCE

Subtitle VI—Miscellaneous

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CHAPTER 97—MISCELLANEOUS

SEC. 9701. FEES AND CHARGES FOR GOVERNMENT SERVICES AND THINGS OF VALUE.

(a) It is the sense of Congress that each service or thing of value provided by an agency (except a mixed-ownership Government corporation) to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible.

(b) The head of each agency (except a mixed-ownership Government corporation) may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be—

(1) fair; and

(2) based on—

(A) the costs to the Government;

(B) the value of the service or thing to the recipient;

(C) public policy or interest served; and

(D) other relevant facts.

(c) This section does not affect a law of the United States—

(1) prohibiting the determination and collection of charges and the disposition of those charges; and

(2) prescribing bases for determining charges, but a charge may be redetermined under this section consistent with the prescribed bases.

SEC. 9702. INVESTMENT OF TRUST FUNDS.

Except as required by a treaty of the United States, amounts held in trust by the United States Government (including annual interest earned on the amounts)—

(1) shall be invested in Government obligations; and

(2) shall earn interest at an annual rate of at least 5 percent.

SEC. 9703. MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.

(a) Beginning with fiscal year 1999, the performance plans required under section 1115 may include proposals to waive administrative procedural requirements and controls, including specification of personnel staffing levels, limitations on compensation or remuneration, and prohibitions or restrictions on funding transfers among budget object classification 20 and subclassifications 11, 12, 31, and 32 of each annual budget submitted under section 1105, in

return for specific individual or organization accountability to achieve a performance goal. In preparing and submitting the performance plan under section 1105(a)(29), the Director of the Office of Management and Budget shall review and may approve any proposed waivers. A waiver shall take effect at the beginning of the fiscal year for which the waiver is approved.

(b) Any such proposal under subsection (a) shall describe the anticipated effects on performance resulting from greater managerial or organizational flexibility, discretion, and authority, and shall quantify the expected improvements in performance resulting from any waiver. The expected improvements shall be compared to current actual performance, and to the projected level of performance that would be achieved independent of any waiver.

(c) Any proposal waiving limitations on compensation or remuneration shall precisely express the monetary change in compensation or remuneration amounts, such as bonuses or awards, that shall result from meeting, exceeding, or failing to meet performance goals.

(d) Any proposed waiver of procedural requirements or controls imposed by an agency (other than the proposing agency or the Office of Management and Budget) may not be included in a performance plan unless it is endorsed by the agency that established the requirement, and the endorsement included in the proposing agency's performance plan.

(e) A waiver shall be in effect for one or two years as specified by the Director of the Office of Management and Budget in approving the waiver. A waiver may be renewed for a subsequent year. After a waiver has been in effect for three consecutive years, the performance plan prepared under section 1115 may propose that a waiver, other than a waiver of limitations on compensation or remuneration, be made permanent.

(f) For purposes of this section, the definitions under section 1115(f) shall apply.

SEC. 9704. PILOT PROJECTS FOR MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.

(a) The Director of the Office of Management and Budget shall designate not less than five agencies as pilot projects in managerial accountability and flexibility for fiscal years 1995 and 1996. Such agencies shall be selected from those designated as pilot projects under section 1118 and shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall include proposed waivers in accordance with section 9703 for one or more of the major functions and operations of the agency.

(c) The Director of the Office of Management and Budget shall include in the report to the President and to the Congress required under section 1118(c)—

(1) an assessment of the benefits, costs, and usefulness of increasing managerial and organizational flexibility, discretion, and authority in exchange for improved performance through a waiver; and

(2) an identification of any significant difficulties experienced by the pilot agencies in preparing proposed waivers.

(d) For purposes of this section the definitions under section 1115(f) shall apply.

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The following list shows the section of 31 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

31 U.S.C.	Requirements or Guidelines
9701	OMB: Circular A–25, see appendix IV
9703	OMB: Circular A–11, see appendix IV
9704	OMB: Circular A–11, see appendix IV

SELECTED PROVISIONS OF TITLE 1, UNITED STATES CODE— GENERAL PROVISIONS

Table of Sections of Selected Provisions of Title 1[6]

TITLE 1, UNITED STATES CODE

GENERAL PROVISIONS

Subtitle I—General

* * * * * * *

Chapter 2—Acts and Resolutions; Formalities of Enactment; Repeals; Sealing of Instruments

Sec.
105. Title of appropriation Acts.

[6] This table of sections is not part of Title 1 but is included for convenience of the reader.

TITLE 1, UNITED STATES CODE

GENERAL PROVISIONS

* * * * * * *

Chapter 2—Acts and Resolutions; Formalities of Enactment; Repeals; Sealing of Instruments

SEC. 105. TITLE OF APPROPRIATION ACTS.

The style and title of all Acts making appropriations for the support of Government shall be as follows: "An Act making appropriations (here insert the object) for the year ending September 30 (here insert the calendar year)."

SELECTED PROVISIONS OF TITLE 2, UNITED STATES CODE— THE CONGRESS

Table of Sections of Selected Provisions of Title 2 [7]

SELECTED PROVISIONS OF TITLE 2, UNITED STATES CODE

TITLE 2, UNITED STATES CODE

The Congress

Chapter 6—Congressional and Committee Procedure; Investigations

Sec. 190d. Legislative review by standing committees of the Senate and the House of Representatives

CHAPTER 17—CONGRESSIONAL BUDGET OFFICE

Sec. 601. Establishment.
Sec. 602. Duties and functions.
Sec. 603. Public access to budget data.
Sec. 605. Sale or Lease of property, supplies, or services.
Sec. 606. Disposition of surplus or obsolete property.

CHAPTER 17A: CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

Sec. 621. Congressional declaration of purpose.
Sec. 622. Definitions.
Sec. 623. Continuing study of additional budget reform proposals.

SUBCHAPTER I—CONGRESSIONAL BUDGET PROCESS

Sec. 631. Timetable.
Sec. 632. Annual adoption of concurrent resolution on the budget.
Sec. 633. Committee allocations.
Sec. 634. Adoption of first concurrent resolution on the budget prior to consideration of legislation providing new budget authority, new spending authority, new credit authority, or changes in revenues or public debt limit.
Sec. 635. Permissible revisions of concurrent resolutions on the budget.
Sec. 636. Consideration of concurrent resolutions on the budget.
Sec. 637. Legislation dealing with Congressional budget must be handled by Budget Committees.
Sec. 638. House Committee action on all appropriation bills to be completed by June 10.
Sec. 639. Reports, summaries, and projections of Congressional budget actions.
Sec. 640. House approval of regular appropriation bills.
Sec. 641. Reconciliation.
Sec. 642. New budget authority, new spending authority, and revenue legislation to be within appropriate levels.
Sec. 643. Effects of points of order.

[7] This table of sections is not part of Title 2 but is included for the convenience of the reader.

Sec. 644. Extraneous matter in reconciliation legislation.

SUBCHAPTER II—FISCAL PROCEDURES

Part A—General Provisions

Sec. 651. Bills providing new spending authority.
Sec. 652. Legislation providing new credit authority.
Sec. 653. Analysis by Congressional Budget Office.
Sec. 654. Study by General Accounting Office of forms of Federal financial commitment not reviewed annually by Congress.
Sec. 655. Off-budget agencies, programs, and activities.
Sec. 656. Member User Group.

SUBCHAPTER III—CREDIT REFORM

Sec. 661. Purposes.
Sec. 661a. Definitions.
Sec. 661b. OMB and CBO analysis, coordination, and review.
Sec. 661c. Budgetary treatment.
Sec. 661d. Authorizations.
Sec. 661e. Treatment of Deposit Insurance and agencies and other insurance programs.
Sec. 661f. Effect on other laws.

SUBCHAPTER IV—BUDGET AGREEMENT ENFORCEMENT PROVISIONS

Sec. 665. Definitions and point of order.
Sec. 665a. Committee allocations and enforcement.
Sec. 665b. Consideration of legislation before adoption of budget resolution for that fiscal year.
Sec. 665c. Reconciliation directives regarding pay-as-you-go requirements.
Sec. 665d. Application of section 642 of this title; point of order.
Sec. 665e. 5-Year budget resolutions; budget resolutions must conform to Balanced Budget and Emergency Deficit Control Act of 1985.

CHAPTER 17B—IMPOUNDMENT CONTROL

Sec. 681. Disclaimer.
Sec. 682. Definitions.
Sec. 683. Rescission of budget authority.
Sec. 684. Proposed deferrals of budget authority.
Sec. 685. Transmission of messages; publication.
Sec. 686. Reports by Comptroller General.
Sec. 687. Suits by Comptroller General.
Sec. 688. Procedure in House of Representatives and Senate.

CHAPTER 20—EMERGENCY POWERS TO ELIMINATE BUDGET DEFICITS

SUBCHAPTER I—ELIMINATION OF DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

Sec. 900. Statement of budget enforcement through sequestration; definitions.
Sec. 901. Enforcing discretionary spending limits.
Sec. 902. Enforcing pay-as-you-go.
Sec. 904. Reports and orders.
Sec. 905. Exempt programs and activities.
Sec. 906. Exceptions, limitations, and special rules.
Sec. 907. The baseline.
Sec. 907a. Suspension in the event of war or low growth.
Sec. 907b. Modification of Presidential order.
Sec. 907c. Flexibility among defense programs, projects, and activities.
Sec. 907d. Special reconciliation process.
Sec. 908. Modification of Presidential order.

TITLE 2—THE CONGRESS

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CHAPTER 6—CONGRESSIONAL AND COMMITTEE PROCEDURE; INVESTIGATIONS

SEC. 190D. LEGISLATIVE REVIEW BY STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.

(a) SCOPE OF ASSISTANCE.—In order to assist the Congress in—

(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee of the Senate and the House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee. Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time.

(b) REPORTS TO THE SENATE AND THE HOUSE OF REPRESENTATIVES.—In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

(c) EXCEPTIONS.—The preceding provisions of this section do not apply to the Committees on Appropriations and the Budget of the Senate and the Committees on Appropriations, the Budget, House Administration, Rules, and Standards of Official Conduct of the House.

TITLE 2—THE CONGRESS

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CHAPTER 17—CONGRESSIONAL BUDGET OFFICE

SEC. 601. ESTABLISHMENT.

(a) IN GENERAL.—

(1) There is established an office of the Congress to be known as the Congressional Budget Office (hereinafter in this chapter referred to as the "Office"). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director first appointed shall expire at noon on January 3, 1979, and the terms of office of Directors subsequently appointed shall expire at noon on January 3 of each fourth year thereafter. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5) The Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule in section 5314 of Title 5. The Deputy Director shall receive compensation at a per annum gross rate equal to the rate of basic pay, as so in effect, for level IV of the Executive Schedule in section 5315 of such title.

(b) PERSONNEL.—The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office,

and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) EXPERTS AND CONSULTANTS.—In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or consultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of Title 5.

(d) RELATIONSHIP TO EXECUTIVE BRANCH.—The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall furnish the Director any available material which he determines to be necessary in the performance of his duties and functions (other than material the disclosure of which would be a violation of law). The Director is also authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission, to utilize its services, facilities, and personnel with or without reimbursement; and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

(e) RELATIONSHIP TO OTHER AGENCIES OF CONGRESS.—In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services, and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, the Library of Congress, and the Office of Technology Assessment, and (upon agreement with them) to utilize their services, facilities, and personnel with or without reimbursement. The Comptroller General, the Librarian of Congress, and the Technology Assessment Board are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

(f) Redesignated (g)

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with section 68 of this title, and upon vouchers approved by the Director.

(g) REVENUE ESTIMATES.—For the purposes of revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this Act.

SEC. 602. DUTIES AND FUNCTIONS.

(a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including (1) information with respect to the budget, appropriation bills, and other bills authorizing or providing new budget authority or tax expenditures, (2) information with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions, and (3) such related information as such Committees may request.

(b) ASSISTANCE TO COMMITTEES ON APPROPRIATIONS, WAYS AND MEANS, AND FINANCE.—At the request of the Committee on Appropriations of either House, the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate, the Office shall provide to such Committee any information which will assist it in the discharge of matters within its jurisdiction, including information described in clauses (1) and (2) of subsection (a) of this section and such related information as the Committee may request.

(c) ASSISTANCE TO OTHER COMMITTEES AND MEMBERS.—

(1) At the request of any other committee of the House of Representatives or the Senate or any joint committee of the Congress, the Office shall provide to such committee or joint committee any information compiled in carrying out clauses (1) and (2) of subsection (a) of this section, and, to the extent practicable, such additional information related to the foregoing as may be requested.

(2) At the request of any committee of the Senate or the House of Representatives, the Office shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that have—

(A) a significant budgetary impact on State, local, or Tribal government;

(B) a significant financial impact on the private sector; or

(C) a significant employment impact on the private sector.

(3) At the request of any Member of the House or Senate, the Office shall provide to such Member any information compiled in carrying out clauses (1) and (2) of subsection (a) of this section, and, to the extent available, such additional information related to the foregoing as may be requested.

(d) ASSIGNMENT OF OFFICE PERSONNEL TO COMMITTEES AND JOINT COMMITTEES.—At the request of the Committee on the Budget of either House, personnel of the Office shall be assigned, on a temporary basis, to assist such committee. At the request of any other committee of either House or any joint committee of the Congress, personnel of the Office may be assigned, on a temporary basis, to assist such committee or joint committee with respect to matters directly related to the applicable provisions of subsection (b) or (c) of this section.

(e) TRANSFER OF FUNCTIONS OF JOINT COMMITTEE ON REDUCTION OF FEDERAL EXPENDITURES.—The duties, functions, and personnel of the Joint Committee on Reduction of Federal Expenditures are transferred to the Office, and the Joint Committee is abolished.

(f) REPORTS TO BUDGET COMMITTEES.—

(1) On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating new budget authority and budget outlays for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or appropriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

(3) On or before January 15 of each year, the Director, after consultation with the appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing (A) all programs and activities funded during the fiscal year ending September 30 of that calendar year for which authorizations for appropriations have not been enacted for that fiscal year, and (B) all programs and activities for which authorizations for appropriations have been enacted for the fiscal year ending September 30 of that calendar year, but for which no authorizations for appropriations have been enacted for the fiscal year beginning October 1 of that calendar year.

(g) USE OF COMPUTERS AND OTHER TECHNIQUES.—The Director may equip the Office with up-to-date computer capability (upon approval of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate), obtain the services of experts and consultants in computer technology, and develop techniques for the evaluation of budgetary requirements.

(h) STUDIES.

(1) CONTINUING STUDIES.—The Director of the Congressional Budget Office shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

(2) FEDERAL MANDATED STUDIES.—(A) At the request of any Chairman or ranking member of the minority of a Committee of the Senate or the House of Representatives, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

(B) In conducting a study on intergovernmental mandates under subparagraph (A), the Director shall—

(i) solicit and consider information or comments from elected officials (including their designated representatives) of State, local, or tribal governments as may provide helpful information or comments;

(ii) consider establishing advisory panels of elected officials or their designated representatives, of State, local, or tribal governments if the Director determines that such advisory panels would be helpful in performing responsibilities of the Director under this section; and

(iii) if, and to the extent that the Director determines that accurate estimates are reasonably feasible, include estimates of—

(I) the future direct cost of the Federal mandate to the extent that such costs significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities, as appropriate.

(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year time period referred to in subparagraph (b)(iii)(I);

(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including

the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

SEC. 603. PUBLIC ACCESS TO BUDGET DATA.

(a) RIGHT TO COPY.—Except as provided in subsections (c) and (d) of this section, the Director shall make all information, data, estimates, and statistics obtained under section 601 (d) and (e) of this title available for public copying during normal business hours, subject to reasonable rules and regulations, and shall to the extent practicable, at the request of any person, furnish a copy of any such information, data, estimates, or statistics upon payment by such person of the cost of making and furnishing such copy.

(b) INDEX.—The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a) of this section applies and shall make such systems available for public use during normal business hours.

(c) EXCEPTIONS.—Subsection (a) of this section shall not apply to information, data, estimates, and statistics—

(1) which are specifically exempted from disclosure by law; or

(2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such matters, information, or data have been excised.

(d) INFORMATION OBTAINED FOR COMMITTEES AND MEMBERS.—Subsection (a) of this section shall apply to any information, data, estimates, and statistics obtained at the request of any committee, joint committee, or Member unless such committee, joint committee, or Member has instructed the Director not to make such information, data, estimates, or statistics available for public copying.

SEC. 604. OMITTED.

SEC. 605. SALE OR LEASE OF PROPERTY, SUPPLIES, OR SERVICES.

Any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 111b of this title.

SEC. 606. DISPOSITION OF SURPLUS OR OBSOLETE PROPERTY.

The Director of the Congressional Budget Office shall have the authority, within the limits of available appropriations, to dispose

of surplus or obsolete personal property by inter-agency transfer, donation, or discarding.

TITLE 2—THE CONGRESS

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CHAPTER 17A—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

SEC. 621. CONGRESSIONAL DECLARATION OF PURPOSE.

The Congress declares that it is essential—

(1) to assure effective congressional control over the budgetary process;

(2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;

(3) to provide a system of impoundment control;

(4) to establish national budget priorities; and

(5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

NOTE

Multiyear Authorizations and 2-Year Appropriations for Selected Agencies and Accounts

Pub. L. 100–119, Title II, Sec. 201, Sept. 29, 1987, 101 Stat. 784, provided that: "It is the sense of the Congress that the Congress should undertake an experiment with multiyear authorizations and 2-year appropriations for selected agencies and accounts. An evaluation of the efficacy and desirability of such experiment should be conducted at the end of the 2-year period. The appropriate committees are directed to develop a plan in consultation with the leadership of the House and Senate to implement this experiment."

Financial Management Reform

Pub. L. 100–119, Title II, Sec. 203, Sept. 29, 1987, 101 Stat. 784, provided that: "It is the sense of the Congress that the Congress should undertake a coordinated effort to identify problems and develop specific recommendations to reform the financial management systems of the United States Government, including consideration of the use of generally accepted accounting principles."

SEC. 622. DEFINITIONS.

For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) Budget authority and new budget authority—

(A) IN GENERAL.—The term "budget authority" means the authority provided by Federal law to incur financial obligations, as follows:

(i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;

(ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

(iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

(B) LIMITATIONS ON BUDGET AUTHORITY.—With respect to the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account, any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

(C) NEW BUDGET AUTHORITY.—The term "new budget authority" means, with respect to a fiscal year—

(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year as a result of a reappropriation; or

(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a change in the estimated level of new budget authority provided in indefinite amounts by existing law.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 632 of this title; and

(B) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 635 of this title.

(5) The term "appropriation Act" means an Act referred to in section 105 of Title 1.

(6) The term "deficit" means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.

(7) The term "surplus" means, with respect to a fiscal year, the amount by which receipts exceeds outlays during that year.

(8) The term "government-sponsored enterprise" means a corporate entity created by a law of the United States that—

(A)(i) has a Federal charter authorized by law;

(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

(iv) is a financial institution with power to—

(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

(II) raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts; and

(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax or to regulate interstate commerce);

(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to Title 5.

(9) the term "entitlement authority" means spending authority described by section 401(c)(2)(C) [2 U.S.C.A. Sec. 651(c)(2)(C)].

(10) The term "credit authority" means authority to incur direct loan obligations or to incur primary loan guarantee commitments.

SEC. 623. CONTINUING STUDY OF ADDITIONAL BUDGET REFORM PROPOSALS.

(a) The Committees on the Budget of the House of Representatives and the Senate shall study on a continuing basis proposals designed to improve and facilitate methods of congressional budgetmaking. The proposals to be studied shall include, but are not limited to, proposals for—

(1) improving the information base required for determining the effectiveness of new programs by such means as pilot testing, survey research, and other experimental and analytical techniques;

(2) improving analytical and systematic evaluation of the effectiveness of existing programs;

(3) establishing maximum and minimum time limitations for program authorization; and

(4) developing techniques of human resource accounting and other means of providing noneconomic as well as economic evaluation measures.

(b) The Committee on the Budget of each House shall, from time to time, report to its House the results of the study carried on by it under subsection (a) of this section, together with its recommendations.

(c) Nothing in this section shall preclude studies to improve the budgetary process by any other committee of the House of Representatives or the Senate or any joint committee of the Congress.

TITLE 2—THE CONGRESS

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CHAPTER 17A—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

Subchapter I—Congressional Budget Process

SEC. 631. TIMETABLE.

The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before	Action to be completed
First Monday in February	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

SEC. 632. ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET.

(a) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year, and planning levels for each of the two ensuing fiscal years, for the following—

(1) totals of new budget authority, budget outlays, direct loan obligations, and primary loan guarantee commitments;

(2) total Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(3) the surplus or deficit in the budget;

(4) new budget authority, budget outlays, direct loan obligations, and primary loan guarantee commitments for each major functional category, based on allocations of the total levels set forth pursuant to paragraph (1);

(5) the public debt;

(6) for purposes of Senate enforcement under this subchapter, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security

Act [42 U.S.C.A. Sec. 401 et seq.] for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and

(7) for purposes of Senate enforcement under this subchapter, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act [42 U.S.C.A. Sec. 401 et seq.] (and the related provisions of the Internal Revenue Code of 1986) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.

The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act [42 U.S.C.A. Sec. 401 et seq.] or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this subchapter.

(b) ADDITIONAL MATTERS IN CONCURRENT RESOLUTION.—The concurrent resolution on the budget may—

(1) set forth, if required by subsection (f) of this section, the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 [15 U.S.C.A. Sec. 1022a(b)] should be achieved;

(2) include reconciliation directives described in section 641 of this title;

(3) require a procedure under which all or certain bills or resolutions providing new budget authority or new entitlement authority for such fiscal year shall not be enrolled until the Congress has completed action on any reconciliation bill or reconciliation resolution or both required by such concurrent resolution to be reported in accordance with section 641(b) of this title;

(4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act;

(5) include a heading entitled "Debt Increase as Measure of Deficit" in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of Title 31) has increased or would increase in each of the relevant fiscal years;

(6) include a heading entitled "Display of Federal Retirement Trust Fund Balances" in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds;

(7) set forth pay-as-you-go procedures for the Senate whereby—

(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered

by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to carry out this paragraph;

(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

(D) the appropriate committee shall report appropriately revised allocations pursuant to section 633(b) to carry out this paragraph; and

(8) set forth procedures to effectuate pay-as-you-go in the House of Representatives.

(c) CONSIDERATION OF PROCEDURES OR MATTERS WHICH HAVE EFFECT OF CHANGING ANY RULE OF HOUSE OF REPRESENTATIVES.—If the Committee on the Budget of the House of Representatives reports any concurrent resolution on the budget which includes any procedure or matter which has the effect of changing any rule of the House of Representatives, such concurrent resolution shall then be referred to the Committee on Rules with instructions to report it within five calendar days (not counting any day on which the House is not in session). The Committee on Rules shall have jurisdiction to report any concurrent resolution referred to it under this paragraph with an amendment or amendments changing or striking out any such procedure or matter.

(d) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—

Within 6 weeks after the President submits a budget under section 1105(a)(1) of Title 31, each committee of the House of Representatives having legislative jurisdiction shall submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction shall submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) of this section which relate to matters within the jurisdiction or functions of such committee. The Joint Economic Committee shall submit to the Committees on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946 [15 U.S.C.A. Sec. 1021 et seq.]. Any other committee of the House of Representatives or the Senate may submit to the Committee on the Budget of its House, and any joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsections (a) and (b) of this section which relate to matters within its jurisdiction or functions.

(e) HEARINGS AND REPORT.—In developing the concurrent resolution on the budget referred to in subsection (a) of this section for

each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (d) of this section may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, including its views on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending. The report accompanying such concurrent resolution shall include, but not be limited to—

(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, total direct loan obligations, total primary loan guarantee commitments, as set forth in such concurrent resolution, with those estimated or requested in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and with each such division being subdivided between controllable amounts and all other amounts;

(4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and any alternative economic assumptions and objectives which the committee considered;

(6) projections (not limited to the following), for the period of five fiscal years beginning with such fiscal year, of the estimated levels of total budget outlays and total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in such period, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution;

(9) allocations described in section 633(a) of this title.

(10) Omitted.

(f) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

(1) If, pursuant to section 4(c) of the Employment Act of 1946 [15 U.S.C.A. Sec. 1022a(c)], the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act [15 U.S.C.A. Sec. 1022a(b)] be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 [15 U.S.C.A. Sec. 1022a(b)] can be achieved, if, pursuant to section 4(e) of such Act [15 U.S.C.A. Sec. 1022a(e)], the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or in its most recent action pursuant to this paragraph, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in subsection (a) of this section) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) [15 U.S.C.A. Sec. 1022(a)(2)] and 4(b) [15 U.S.C.A. Sec. 1022a(b)] of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.

(g) ECONOMIC ASSUMPTIONS.—

(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

(3) Subject to periodic reestimation based on changed economic conditions or technical estimates, determinations under titles III [2 U.S.C.A. Sec. 631 et seq.] and IV [2 U.S.C.A. Sec. 651 et seq.] of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.

(h) BUDGET COMMITTEE'S CONSULTATION WITH COMMITTEES.—The Committee on the Budget of the House of Representatives shall consult with the committees of its House having legislative

jurisdiction during the preparation, consideration, and enforcement of the concurrent resolution on the budget with respect to all matters which relate to the jurisdiction or functions of such committees.

(i) MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the concurrent resolution. No change in chapter 1 of the Internal Revenue Code of 1986 [26 U.S.C.A. Sec. 1 et seq.] shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

NOTE

Exclusion of Social Security from All Budgets

Section 13301(a) of Pub. L. 101–508 provided that:

"Notwithstanding any other provision of law, the receipts and disbusements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

"(1) the budget of the United States Government as submitted by the President,

"(2) the congressional budget, or

"(3) the Balanced Budget and Emergency Deficit Control Act of 1985 [Pub. L. 99–177, Title II, Dec. 12, 1985, 99 Stat. 1038]."

SEC. 633. COMMITTEE ALLOCATIONS.

(a) ALLOCATION OF TOTALS.—(1) For the House of Representatives, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays, total new budget authority, and total entitlement authority among each committee of the House of Representatives which has jurisdiction over laws, bills and resolutions providing such new budget authority, or such entitlement authority. The allocation shall, for each committee, divide new budget authority, and entitlement authority between amounts provided or required by law on the date of such conference report (mandatory or uncontrollable amounts), and amounts not so provided or required (discretionary or controllable amounts), and shall make the same division for estimated outlays that would result from such new budget authority.

(2) For the Senate, the joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of social security outlays for the fiscal year of the resolution and for each of the 4 succeeding fiscal years, total budget outlays and total new budget authority among each committee of

the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

(b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

(2) every other committee of the House and Senate to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

(c) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, providing—

(1) new budget authority for a fiscal year; or

(2) new spending authority as described in section 651(c)(2) of this title for a fiscal year

within the jurisdiction of any committee which has received an appropriate allocation of such authority pursuant to subsection (a) of this section for such fiscal year, unless and until such committee makes the allocation or subdivisions required by subsection (b) of this section, in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year.

(d) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 635 of this title, the allocations under subsection (a) of this section and the subdivisions under subsection (b) of this section shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

(e) ALTERATION OF ALLOCATIONS.—At any time after a committee reports the allocations required to be made under subsection (b) of this section, such committee may report to its House an alteration of such allocations. Any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

(f) LEGISLATION SUBJECT TO POINT OF ORDER.—

(1) IN HOUSE OF REPRESENTATIVES.—After the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, or amendment providing new budget authority for such fiscal year or new entitle-

ment authority effective during such fiscal year, or any conference report on any such bill or joint resolution, if—

(A) the enactment of such bill or resolution as reported;

(B) the adoption and enactment of such amendment; or

(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the appropriate allocation made pursuant to subsection (b) of this section for such fiscal year of new discretionary budget authority or new entitlement authority to be exceeded.

(2) IN SENATE.—At any time after the Congress has completed action on the concurrent resolution on the budget required to be reported under section 632(a) of this title for a fiscal year, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report, that provides for budget outlays, new budget authority, or new spending authority (as defined in section 651(c)(2) of this title) in excess of (A) the appropriate allocation of such outlays or authority reported under subsection (a) of this section, or (B) the appropriate allocation (if any) of such outlays or authority reported under subsection (b) of this section in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year or provides for social security outlays in excess of the appropriate allocation of social security outlays under subsection (a) of this section for the fiscal year of the resolution or for the total of that year and the 4 succeeding fiscal years. Subparagraph (A) shall not apply to any bill, resolution, amendment, motion, or conference report that is within the jurisdiction of the Committee on Appropriations. In applying this paragraph—

(A) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget;

(B) estimated social security outlays shall be deemed increased by the shortfall of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

(C) no provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of Title 26 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) of this section and revised functional lev-

els and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b) of this section.

(g) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the levels of new budget authority, spending authority as described in section 651(c)(2) of this title, outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

SEC. 634. ADOPTION OF FIRST CONCURRENT RESOLUTION ON THE BUDGET PRIOR TO CONSIDERATION OF LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, NEW CREDIT AUTHORITY, OR CHANGES IN REVENUES OR PUBLIC DEBT LIMIT.

(a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report as reported to the House or Senate which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year;

(3) an increase or decrease in the public debt limit to become effective during a fiscal year;

(4) new entitlement authority to become effective during a fiscal year;

(5) in the Senate only, new spending authority (as defined in section 651(c)(2) of this title) for a fiscal year; or

(6) in the Senate only, outlays,

until the concurrent resolution on the budget for such fiscal year (or, in the Senate, a concurrent resolution on the budget covering such fiscal year) has been agreed to pursuant to section 632 of this title.

(b) EXCEPTIONS.—

(1) In the House of Representatives, subsection (a) of this section does not apply to any bill or resolution—

(A) providing new budget authority which first becomes available in a fiscal year following the fiscal year to which the concurrent resolution applies; or

(B) increasing or decreasing revenues which first become effective in a fiscal year following the fiscal year to which the concurrent resolution applies.

After May 15 of any calendar year, subsection (a) of this section does not apply in the House of Representatives to any general appropriation bill, or amendment thereto, which provides new budget authority for the fiscal year beginning in such calendar year.

(2) In the Senate, subsection (a) of this section does not apply to any bill or resolution making advance appropriations for the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years.

(c) WAIVER IN SENATE.—

(1) The committee of the Senate which reports any bill or resolution (or amendment thereto) to which subsection (a) of this section applies may at or after the time it reports such bill or resolution (or amendment), report a resolution to the Senate (A) providing for the waiver of subsection (a) of this section with respect to such bill or resolution (or amendment), and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to the bill or resolution (or amendment thereto) to which the resolution so agreed to applies.

SEC. 635. PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.

(a) IN GENERAL.—At any time after the concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 632 of this title, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget for such fiscal year most recently agreed to.

(b) ECONOMIC ASSUMPTIONS.—The provisions of section 632(g) of this title shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 632(g) of this title (and amendments thereto and conference reports thereon).

SEC. 636. CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET.

(a) PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

(1) When the Committee on the Budget of the House of Representatives has reported any concurrent resolution on the budget, it is in order at any time after the fifth day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report upon such resolution by the Committee on the Budget has been available to Members of the House and, if applicable, after the first day (excluding Saturdays, Sundays, and legal holidays) following the day on which a report upon such resolution by the Committee on Rules pursuant to section 632(c) of this title has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 1022(a) and 1022a(b) of Title 15) which the estimates, amounts, and levels (as described in section 632(a) of this title) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it

shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(6) Debate in the House of Representatives on the conference report on any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(7) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that with respect to any concurrent resolution referred to in section 635(a) of this title all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 1022(a)(2) and 1022a(b) of Title 15) which the estimates, amounts, and levels (as described in section 632(a) of this title) set forth in such resolution are designed to

achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) A motion to proceed to the consideration of the conference report on any concurrent resolution on the budget (or a reconciliation bill or resolution) may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report (or a message between Houses) on any concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes,

to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) CONCURRENT RESOLUTION MUST BE CONSISTENT IN SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

(e) Redesignated (d).

SEC. 637. LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES.

No bill, resolution, amendment, motion, or conference report, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

SEC. 638. HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BY JUNE 10.

On or before June 10 of each year, the Committee on Appropriations of the House of Representatives shall report annual appropriation bills providing new budget authority under the jurisdiction of all of its subcommittees for the fiscal year which begins on October 1 of that year.

SEC. 639. REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS.

(a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR NEW CREDIT AUTHORITY, OR PROVIDING INCREASE OR DECREASE IN REVENUES OR TAX EXPENDITURES.—

(1) Whenever a committee of either House reports to its House a bill or resolution, or committee amendment thereto, providing new budget authority (other than continuing appropriations), new spending authority described in section 651(c)(2) of this title, or new credit authority, or providing an increase or decrease in revenues or tax expenditures for a fiscal year (or fiscal years), the report accompanying that bill or resolution shall contain a statement, or the committee shall make available such a statement in the case of an approved committee amendment which is not reported to its House, prepared after consultation with the Director of the Congressional Budget Office—

(A) comparing the levels in such measure to the appropriate allocations in the reports submitted under section 633(b) of this title for the most recently agreed to concur-

rent resolution on the budget for such fiscal year (or fiscal years);

(B) including an identification of any new spending authority described in section 651(c)(2) of this title which is contained in such measure and a justification for the use of such financing method instead of annual appropriations;

(C) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such budget authority, budget outlays, spending authority, revenues, tax expenditures, direct loan obligations, or primary loan guarantee commitments under existing law for such fiscal year (or fiscal years) and each of the four ensuing fiscal years, if timely submitted before such report is filed; and

(D) containing an estimate by the Congressional Budget Office of the level of new budget authority for assistance to State and local governments provided by such measure, if timely submitted before such report is filed.

(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement of managers to be proposed by the conferees in the case of technical disagreement on such bill or resolution provides new budget authority (other than continuing appropriations), new spending authority described in section 651(c)(2) of this title, or new credit authority, or provides an increase or decrease in revenues for a fiscal year (or fiscal years), the statement of managers accompanying such conference report shall contain the information described in paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable prior to the consideration of such conference report.

(b) UP-TO-DATE TABULATION OF CONGRESSIONAL BUDGET ACTION.—

(1) The Director of the Congressional Budget Office shall issue to the committees of the House of Representatives and the Senate reports on at least a monthly basis detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority, new spending authority described in section 651(c)(2) of this title, or new credit authority, or providing an increase or decrease in revenues or tax expenditures for each fiscal year covered by a concurrent resolution on the budget. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels (including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding the first fiscal year covered by the appropriate concurrent resolution.

(2) The Committee on the Budget of each House shall make available to Members of its House summary budget scorekeeping reports. Such reports—

(A) shall be made available on at least a monthly basis, but in any case frequently enough to provide Members of each House an accurate representation of the current status of congressional consideration of the budget;

(B) shall include, but are not limited to, summaries of tabulations provided under subsection (b)(1) of this section; and

(C) shall be based on information provided under subsection (b)(1) of this section without substantive revision.

The chairman of the Committee on the Budget of the House of Representatives shall submit such reports to the Speaker.

(c) FIVE-YEAR PROJECTION OF CONGRESSIONAL BUDGET ACTION.—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period;

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period;

(3) tax expenditures for each fiscal year in such period;

(4) entitlement authority for each fiscal year in such period; and

(5) credit authority for each fiscal year in such period.

SEC. 640. HOUSE APPROVAL OF REGULAR APPROPRIATION BILLS.

It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has approved annual appropriation bills providing new budget authority under the jurisdiction of all the subcommittees of the Committee on Appropriations for the fiscal year beginning on October 1 of such year. For purposes of this section, the chairman of the Committee on Appropriations of the House of Representatives shall periodically advise the Speaker as to changes in jurisdiction among its various subcommittees.

SEC. 641. RECONCILIATION.

(a) INCLUSION OF RECONCILIATION DIRECTIVES IN CONCURRENT RESOLUTIONS ON THE BUDGET.—A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution, shall—

(1) specify the total amount by which—

(A) new budget authority for such fiscal year;

(B) budget authority initially provided for prior fiscal years;

(C) new entitlement authority which is to become effective during such fiscal year; and

(D) credit authority for such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to de-

termine and recommend changes to accomplish a change of such total amount;

(2) specify the total amount by which revenues are to be changed and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

(3) specify the amounts by which the statutory limit on the public debt is to be changed and direct the committee having jurisdiction to recommend such change; or

(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) (including a direction to achieve deficit reduction).

(b) LEGISLATIVE PROCEDURE.—If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws, bills, or resolutions is agreed to in accordance with subsection (a) of this section, and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation legislation containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Committee on the Budget of its House, which, upon receiving all such recommendations, shall report to its House reconciliation legislation carrying out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

(c) COMPLIANCE WITH RECONCILIATION DIRECTIONS.—

(1) Any committee of the House of Representatives or the Senate that is directed, pursuant to a concurrent resolution on the budget, to determine and recommend changes of the type described in paragraphs (1) and (2) of subsection (a) of this section with respect to laws within its jurisdiction, shall be deemed to have complied with such directions—

(A) if—

(i) the amount of the changes of the type described in paragraph (1) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under such paragraph by more than 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection, and

(ii) the amount of the changes of the type described in paragraph (2) of such subsection recommended by such committee do not exceed or fall below the amount

of the changes such committee was directed by such concurrent resolution to recommend under that paragraph by more than 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; and

(B) if the total amount of the changes recommended by such committee is not less than the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection.

(2)(A) Upon the reporting to the Committee on the Budget of the Senate of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of that committee may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to carry out this subsection.

(B) Upon the submission to the Senate of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to carry out this subsection.

(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 632 of this title.

(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting committee shall report revised allocations pursuant to section 633(b) of this title to carry out this subsection.

(d) LIMITATION ON AMENDMENTS TO RECONCILIATION BILLS AND RESOLUTIONS.—

(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget), or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution (for such fiscal years), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years), except that a motion to strike a provision providing new budget authority or new entitlement authority may be in order.

(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of decreasing any specific budget outlay reductions below the level of such outlay

reductions provided (for the fiscal years covered) in the reconciliation instructions which relate to such bill or resolution set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill or resolution, unless such amendment makes a reduction in other specific budget outlays, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in outlays or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

(4) For purposes of this section, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

(5) The Committee on Rules of the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.

(e) PROCEDURE IN SENATE.—

(1) Except as provided in paragraph (2), the provisions of section 636 of this title for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) of this section and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill reported under subsection (b) of this section, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

(f) COMPLETION OF RECONCILIATION PROCESS.—It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has completed action on the reconciliation legislation for the fiscal year beginning on October 1 of the calendar year to which the adjournment resolution pertains, if reconciliation legislation is required to be reported by the concurrent resolution on the budget for such fiscal year.

(g) LIMITATION ON CHANGES TO SOCIAL SECURITY ACT.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 632 or 635 of this title, or a joint resolution pursuant to section 907(d) of this title, or any amendment thereto or conference report thereon, that contains recommendations with respect to the old-age, survivors,

and disability insurance program established under title II of the Social Security Act [42 U.S.C.A. Sec. 401 et seq.].

SEC. 642. NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION TO BE WITHIN APPROPRIATE LEVELS.

(a) LEGISLATION SUBJECT TO POINT OF ORDER.—

(1) Except as provided by subsection (b) of this section, after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or reducing revenues for such fiscal year, if—

(A) the enactment of such bill or resolution as reported;

(B) the adoption and enactment of such amendment; or

(C) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues set forth in such concurrent resolution except in the case that a declaration of war by the Congress is in effect.

(2)(A) After the Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause the appropriate level of total new budget authority or total budget outlays or social security outlays set forth for the first fiscal year in the most recently agreed to concurrent resolution on the budget covering such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues (or social security revenues to be less than the appropriate level of social security revenues) set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such concurrent resolution.

(B) In applying this paragraph—

(i)(I) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues specified in the most recently agreed to concurrent resolution on the budget;

(II) estimated social security revenues shall be deemed to be increased to the extent that estimated social security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of social security outlays in the most recently agreed to concurrent resolution on the budget; and

(ii)(I) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated social security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

(II) estimated social security revenues shall be deemed to be reduced by the excess of estimated social security outlays (including social security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of social security outlays specified in the most recently adopted concurrent resolution on the budget; and

(iii) no provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of Title 26 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to section 633(b) of this title.

(b) EXCEPTION IN HOUSE OF REPRESENTATIVES.—Subsection (a) of this section shall not apply in the House of Representatives to any bill, resolution, or amendment which provides new budget authority or new entitlement authority effective during such fiscal year, or to any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report, would not cause the appropriate allocation of new discretionary budget authority or new entitlement authority made pursuant to section 633(a) of this title for such fiscal year, for the committee within whose jurisdiction such bill, resolution, or amendment falls, to be exceeded.

(c) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

SEC. 643. EFFECTS OF POINTS OF ORDER.

(a) POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.

SEC. 644. EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION.

(a) IN GENERAL.—When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 641 of this title, (whether that bill or resolution originated in the Senate or the House) or section 907d of this title, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (b) of this section shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

(b) EXTRANEOUS PROVISIONS.—

(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 641 of this title shall be considered extraneous if such provision does not produce a change in outlays or revenues, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected (but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph); (B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous; (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision; (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year; and (F) a provision

shall be considered extraneous if it violates section 641(g) of this title.

(2) A Senate-originated provision shall not be considered extraneous under paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which reported the provision certify that: (A) the provision mitigates direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit; (B) the provision will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; or (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if (A) the provision is an integral part of a provision or title, which if introduced as a bill or resolution would be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or (B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.

(c) POINT OF ORDER.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 641 of this title, upon—

(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F) of this section, and

(2) such point of order being sustained,

such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for two hours. In any case in which such point of order is sustained against a conference report

(or Senate amendment derived from such conference report by operation of this subsection) no further amendment shall be in order.

(d) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 641 of this title in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

(e) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(f) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

TITLE 2—THE CONGRESS

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CHAPTER 17A—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

Subchapter II—Fiscal Procedures

PART A—GENERAL PROVISIONS

SEC. 651. BILLS PROVIDING NEW SPENDING AUTHORITY.

(a) CONTROLS ON LEGISLATION PROVIDING SPENDING AUTHORITY.—It shall not be order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(A) or (B) of this section, unless that bill, resolution, conference report, or amendment also provides that such new spending authority as described in subsection (c)(2)(A) or (B) of this section is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report, as reported to its House which provides new spending authority described in subsection (c)(2)(C) of this section which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) of this section which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 633(b) of this title in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day

period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

(c) DEFINITIONS.—

(1) For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this Act, including any increase in or addition to spending authority provided by law on such date.

(2) For purposes of paragraph (1), the term "spending authority" means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under chapter 31 of Title 31) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts;

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law;

(D) to forego the collection by the United States of proprietary offsetting receipts, the budget authority for which is not provided in advance by appropriation Acts to offset such foregone receipts; and

(E) to make payments by the United States (including loans, grants, and payments from revolving funds) other than those covered by subparagraph (A), (B), (C), or (D), the budget authority for which is not provided in advance by appropriation Acts.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(d) EXCEPTIONS.—

(1) Subsections (a) and (b) of this section shall not apply to new spending authority if the budget authority for outlays which will result from such new spending authority is derived—

(A) from a trust fund established by the Social Security Act [42 U.S.C.A. Sec. 301 et seq.] (as in effect on July 12, 1974); or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury

under specified provisions of the Internal Revenue Code of 1954 [26 U.S.C.A. Sec. 1 et seq.].

(2) Subsections (a) and (b) of this section shall not apply to new spending authority which is an amendment to or extension of chapter 67 of Title 31, or a continuation of the program of fiscal assistance to State and local governments provided by that chapter, to the extent so provided in the bill or resolution providing such authority.

(3) Subsections (a) and (b) of this section shall not apply to new spending authority to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 9101(2) of Title 31) or (ii) a wholly owned Government corporation (as defined in section 9101(3) of Title 31) which is specifically exempted by law from compliance with any or all of the provisions of chapter 91 of Title 31, as of December 12, 1985; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

SEC. 652. LEGISLATION PROVIDING NEW CREDIT AUTHORITY.

(a) CONTROLS ON LEGISLATION PROVIDING NEW CREDIT AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report as reported to its House, which provides new credit authority described in subsection (b)(1) of this section, unless that bill, resolution, conference report, or amendment also provides that such new credit authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) DEFINITION.—For purposes of this Act, the term "new credit authority" means credit authority (as defined in section 622(10) of this title) not provided by law on the effective date of this section, including any increase in or addition to credit authority provided by law on such date.

SEC. 653. ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.

The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

(2) a comparison of the estimates of costs described in paragraph (1) and (2) with any available estimates of costs made by such committee or by any Federal agency; and

(3) a description of each method for establishing a Federal financial commitment contained in such bill or resolution.

The estimates, comparison, and description so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

SEC. 654. STUDY BY GENERAL ACCOUNTING OFFICE OF FORMS OF FEDERAL FINANCIAL COMMITMENT NOT REVIEWED ANNUALLY BY CONGRESS.

The General Accounting Office shall study those provisions of law which provide spending authority as described by section 651(c)(2) of this title and which provide permanent appropriations, and report to the Congress its recommendations for the appropriate form of financing for activities or programs financed by such provisions not later than eighteen months after December 12, 1985. Such report shall be revised from time to time.

SEC. 655. OFF-BUDGET AGENCIES, PROGRAMS, AND ACTIVITIES.

(a) Notwithstanding any other provision of law, budget authority, credit authority, and estimates of outlays and receipts for activities of the Federal budget which are off-budget immediately prior to December 12, 1985, not including activities of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, shall be included in a budget submitted pursuant to section 1105 of Title 31, and in a concurrent resolution on the budget reported pursuant to section 632 or 635 of this title and shall be considered, for purposes of this Act, budget authority, outlays, and spending authority in accordance with definitions set forth in this Act.

(b) All receipts and disbursements of the Federal Financing Bank with respect to any obligations which are issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency for purposes of section 1105 of Title 31 and for purposes of this Act.

SEC. 656. MEMBER USER GROUP.

The Speaker of the House of Representatives, after consulting with the Minority Leader of the House, may appoint a Member User Group for the purpose of reviewing budgetary scorekeeping rules and practices of the House and advising the Speaker from time to time on the effect and impact of such rules and practices.

TITLE 2—THE CONGRESS

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CHAPTER 17A—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

Subchapter III—Credit Reform

SEC. 661. PURPOSES.

The purposes of this subchapter are to—

(1) measure more accurately the costs of Federal credit programs;

(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

(4) improve the allocation of resources among credit programs and between credit and other spending programs.

SEC. 661A. DEFINITIONS.

For purposes of this subchapter—

(1) The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

(2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

(3) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(4) The term "loan guarantee commitment" means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(5)(A) The term "cost" means the estimated long-term cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows:

(i) loan disbursements;

(ii) repayments of principal; and

(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties and other recoveries.

(C) The cost of a loan guarantee shall be the net present value when a guaranteed loan is disbursed of the cash flow from—

(i) estimated payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments, and

(ii) the estimated payments to the Government including origination and other fees, penalties and recoveries.

(D) Any Government action that alters the estimated net present value of an outstanding direct loan or loan guarantee (except modifications within the terms of existing contracts or through other existing authorities) shall be counted as a change in the cost of that direct loan or loan guarantee. The calculation of such changes shall be based on the estimated present value of the direct loan or loan guarantee at the time of modification.

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the direct loan or loan guarantee for which the estimate is being made.

(6) The term "credit program account" means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

(7) The term "financing account" means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991.

These accounts shall be shown in the budget on a cash basis.

(9) The term "Director" means the Director of the Office of Management and Budget.

SEC. 661B. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW.

(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

(e) HISTORICAL CREDIT PROGRAM COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

(f) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

SEC. 661C. BUDGETARY TREATMENT.

(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

(1) appropriations of budget authority to cover their costs are made in advance;

(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program is enacted; or

(3) authority is otherwise provided in appropriation Acts.

(c) EXEMPTION FOR MANDATORY PROGRAMS.—Subsection (b) of this section shall not apply to a direct loan or loan guarantee program that—

(1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

(2) all existing credit programs of the Commodity Credit Corporation on November 5, 1990.

(d) BUDGET ACCOUNTING.—

(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or directly or indirectly alter the costs of outstanding direct loans and loan guarantees shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

(3) All collections and payments of the financing accounts shall be a means of financing.

(e) MODIFICATIONS.—A direct loan obligation or loan guarantee commitment shall not be modified in a manner that increases its cost unless budget authority for the additional cost is appropriated, or is available out of existing appropriations or from other budgetary resources.

(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

SEC. 661D. AUTHORIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

(b) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this subchapter, the President is authorized to establish such non-budgetary accounts as may be appropriate.

(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supercede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this sub-

section shall be subject to the provisions of subchapter II of chapter 15 of Title 31. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—If funds in liquidating accounts are insufficient to satisfy the obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

(e) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION EXPENSES.—There are authorized to be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this subchapter.

(f) REINSURANCE.—Nothing in this subchapter shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this subchapter shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

SEC. 661E. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

(a) IN GENERAL.—

(1) This subchapter shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

(2) The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

(3) For the purposes of paragraph (2), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

SEC. 661F. EFFECT ON OTHER LAWS.

(a) EFFECT ON OTHER LAWS.—This subchapter shall supersede, modify, or repeal any provision of law enacted prior to November 5, 1990, to the extent such provision is inconsistent with this subchapter. Nothing in this subchapter shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same ex-

tent that they were available prior to November 5, 1988, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.

TITLE 2—THE CONGRESS

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CHAPTER 17A—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

Subchapter IV—Budget Agreement Enforcement Provisions

SEC. 665. DEFINITIONS AND POINT OF ORDER

(a) DEFINITIONS.—As used in this subchapter and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

(1) MAXIMUM DEFICIT AMOUNT.—The term "maximum deficit amount" means—

(A) with respect to fiscal year 1991, $327,000,000,000;

(B) with respect to fiscal year 1992, $317,000,000,000;

(C) with respect to fiscal year 1993, $236,000,000,000;

(D) with respect to fiscal year 1994, $102,000,000,000; and

(E) with respect to fiscal year 1995, $83,000,000,000;

as adjusted in strict conformance with sections 251, 252, and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C.A. Secs. 901, 902, and 903].

(2) DISCRETIONARY SPENDING LIMIT.—The term "discretionary spending limit" means—

(A) with respect to fiscal year 1991—

(i) for the defense category: $288,918,000,000 in new budget authority and $297,660,000,000 in outlays;

(ii) for the international category: $20,100,000,000 in new budget authority and $18,600,000,000 in outlays; and

(iii) for the domestic category: $182,700,000,000 in new budget authority and $198,100,000,000 in outlays;

(B) with respect to fiscal year 1992—

(i) for the defense category: $291,643,000,000 in new budget authority and $295,744,000,000 in outlays;

(ii) for the international category: $20,500,000,000 in new budget authority and $19,100,000,000 in outlays; and

(iii) for the domestic category: $191,300,000,000 in new budget authority and $210,100,000,000 in outlays;

(C) with respect to fiscal year 1993—

(i) for the defense category: $291,785,000,000 in new budget authority and $292,686,000,000 in outlays;

(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and

(iii) for the domestic category: $198,300,000,000 in new budget authority and $221,700,000,000 in outlays;

(D) with respect to fiscal year 1994, for the discretionary category: $510,800,000,000 in new budget authority and $534,800,000,000 in outlays;

(E) with respect to fiscal year 1995, for the discretionary category: $517,700,000,000 in new budget authority and $540,800,000,000 in outlays;

(F) with respect to fiscal years 1996, 1997, and 1998, for the discretionary category, the amounts set forth for those years in section 12(b)(1) of House Concurrent Resolution 64 (One Hundred Third Congress);

as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C.A. Sec. 901].

(b) Point of order in the Senate on aggregate allocations for defense, international, and domestic discretionary spending—

(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1995, 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in this section.

(3) For purposes of this subsection, the levels of new budget authority and outlays for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(4) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

NOTE

Downward Adjustments in Discretionary Spending Limits

Pub. L. 104–19, Title II, Sec. 2003, July 27, 1995, 109 Stat. 247, provided that: "Upon the enactment of this Act [probably means date of enactment of Pub. L. 104–19, which was approved July 27, 1995], the Director of the Office of Management and Budget shall make downward adjustments in the discretionary spending limits (new budget authority and outlays) specified in section 601(a)(2) of the Congressional Budget Act of 1974 [subsec. (a)(2) of this section] for each of the fiscal years 1995 through 1998 by the programs resulting from the provisions of this Act [Pub. L. 104–19, July 27, 1995, 109 Stat. 194, for classifications of which see Tables] (other than emergency appropriations) for such fiscal year, as calculated by the Director."

SEC. 665A. COMMITTEE ALLOCATIONS AND ENFORCEMENT.

(a) COMMITTEE SPENDING ALLOCATIONS.—

(1) HOUSE OF REPRESENTATIVES.—

(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with

the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

(i) total new budget authority,

(ii) total entitlement authority,

(iii) total outlays,

(iv) new budget authority from the Violent Crime Reduction Trust Fund, and

(v) outlays from the Violent Crime Reduction Trust Fund;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

(A) total new budget authority;

(B) total outlays;

(C) social security outlays;

(D) new budget authority from the Violent Crime Reduction Trust Fund; and

(E) outlays from the Violent Crime Reduction Trust Fund;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

(3) AMOUNTS NOT ALLOCATED.—

(A) In the House of Representatives, if a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

(B) In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

(4) NO DOUBLE COUNTING.—Amounts allocated among committees under clause (iv) or (v) of paragraph (1)(A) or under subparagraph (D) or (E) of paragraph (2) shall not be included within any other allocation under that paragraph.

(b) SUBALLOCATIONS BY COMMITTEES.—

(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(A) or (a)(2) of this section among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.

(2) SUBALLOCATIONS BY OTHER COMMITTEES OF THE SENATE.—Each other committee of the Senate to which an allocation under subsection (a)(2) of this section is made in the joint explanatory statement may subdivide each amount allocated to it under subsection (a) of this section among its subcommittees or among programs over which it has jurisdiction and shall promptly report any such suballocations to the Senate. Section 633(c) of this title shall not apply in the Senate to committees other than the Committee on Appropriations.

(c) APPLICATION OF SECTION 633(f) OF THIS TITLE TO THIS SECTION.—In fiscal years through 1995, reference in section 633(f) of this title to the appropriate allocation made pursuant to section 633(b) of this title for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any suballocation made under subsection (b) of this section, as applicable, for the fiscal year of the resolution or for the total of all fiscal years made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget. In the House of Representatives, the preceding sentence shall not apply with respect to fiscal year 1991.

(d) APPLICATION OF SUBSECTIONS (A) AND (B) OF THIS SECTION TO FISCAL YEARS 1992 TO 1995.—In the case of concurrent resolutions on the budget for fiscal years 1992 through 1995, allocations shall be made under subsection (a) of this section instead of section 633(a) of this title and shall be made under subsection (b) of this section instead of section 633(b) of this title. For those fiscal years, all references in sections 633(c), (d), (e), (f), and (g) of this title to section 633(a) of this title shall be deemed to be to subsection (a) of this section (including revisions made under section 665c of this title) and all such references to section 633(b) of this title shall be deemed to be to subsection (b) of this section (including revisions made under section 665c of this title).

(e) PAY-AS-YOU-GO EXCEPTION IN THE HOUSE.—Section 663(f)(1) of this title and, after April 15 of any calendar year section 633(a) of this title, shall not apply to any bill, joint resolution, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit for any such fiscal year, and, if the sum of any revenue increases provided in legislation already en-

acted during the current session (when added to revenue increases, if any, in excess of any outlay increase provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal revenues should be increased as set forth in that concurrent resolution and the amount, if any, by which revenues are to be increased pursuant to pay-as-you-go procedures under section 632(b)(8) of this title if included in that concurrent resolution.

(2) REVISED ALLOCATIONS.—

(A) As soon as practicable after Congress agrees to a bill or joint resolution that would have been subject to a point of order under section 633(f)(1) of this title but for the exception provided in paragraph (1), the chairman of the Committee on the Budget of the House of Representatives may file with the House appropriately revised allocations under section 633(a) of this title and revised functional levels and budget aggregates to reflect that bill.

(B) such revised allocations, functional levels, and budget aggregates shall be considered for the purposes of this Act as allocations, functional levels, and budget aggregates contained in the most recently agreed to concurrent resolution on the budget.

SEC. 665B. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR.

(a) ADJUSTING SECTION ALLOCATION OF DISCRETIONARY SPENDING.—If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, as soon as practicable, a section 665a(a) allocation to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of Title 31. Such allocations shall include the full allowance specified under section 901(b)(2)(E)(i) of this title.

(b) As soon as practicable after a section 665a(a) allocation is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

SEC. 665C. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS.

(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO IN THE HOUSE OF REPRESENTATIVES.—If legislation providing for a net reduction in revenues in any fiscal year (that, within the same measure, is not fully offset in that fiscal year by reductions in direct spending) is enacted, the Committee on the Budget of the House of Representatives may report, within 15 legislative days during a Congress, a pay-as-you-go reconciliation directive in the form of a concurrent resolution—

(1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

(2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

(b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, subsections (b) through (d) of section 641 of this title shall apply in the same manner as if the reconciliation directive described in subsection (a) of this section were a concurrent resolution on the budget.

SEC. 665D. APPLICATION OF SECTION 642 OF THIS TITLE; POINT OF ORDER.

(a) APPLICATION OF SECTION 642(a) OF THIS TITLE.—

(1) In the House of Representatives, in the application of section 642(a)(1) of this title to any bill, resolution, amendment, or conference report, reference in section 642 of this title to the appropriate level of total budget authority or total budget outlays or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate level for that year and the 4 succeeding years.

(2) In the Senate, in the application of section 642(a)(2) of this title to any bill, resolution, motion, or conference report, reference in section 642 of this title to the appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate levels for that year and the 4 succeeding years.

(b) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—After Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would result in a deficit for the first fiscal year covered by that resolution that exceeds the maximum deficit amount specified for such fiscal year in section 655(a) of this title.

SEC. 665E. 5-YEAR BUDGET RESOLUTIONS; BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

(a) 5-YEAR BUDGET RESOLUTIONS.—In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995, that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years for the matters described in section 632(a) of this title.

(b) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider any concurrent resolution on the budget for a fiscal year or conference report thereon under section 632 or 635 of this title that exceeds the maximum deficit amount for each fiscal year covered by the concurrent resolution or conference report as determined under section 665(a) of this title, including possible revisions under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C.A. Sec. 900 et seq.].

(c) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 632 of this title, or to consider any

amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays for the first fiscal year that is set forth in such concurrent resolution or conference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 665(a) of this title or if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount for such fiscal years as determined under section 665(a) of this title.

(d) ADJUSTMENTS.—

(1) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 632 or 635 of this title may set forth levels consistent with allocations increased by—

(A) amounts not to exceed the budget authority amounts in section 251(b)(2)(E) (i) and (ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C.A. Sec. 901(b)(2)(E) (i) and (ii)] and the composite outlays per category consistent with them; and

(B) the budget authority and outlay amounts in section 251(b)(1) of that Act [2 U.S.C.A. Sec. 901(b)(1)].

(2) For purposes of congressional consideration of provisions described in sections 251(b)(2)(A), 251(b)(2)(B), 251(b)(2)(C), 251(b)(2)(D), and 252(e), determinations under sections 633, 634, and 642 of this title shall not take into account any new budget authority, new entitlement authority, outlays, receipts, or deficit effects in any fiscal year of those provisions.

TITLE 2—THE CONGRESS

* * * * * * *

CHAPTER 17B—IMPOUNDMENT CONTROL

SEC. 681. DISCLAIMER.

Nothing contained in this Act, or in any amendments made by this Act, shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying or approving any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect;

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment; or

(4) superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder.

SEC. 682. DEFINITIONS.

For purposes of sections 682 to 688 of this title—

(1) "deferral of budget authority" includes—

(A) withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law;

(2) "Comptroller General" means the Comptroller General of the United States;

(3) "rescission bill" means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 683 of this title, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress;

(4) "impoundment resolution" means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 684 of this title; and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3) of this section and in section 683 of this title, and the 25-day periods referred to in sections 687 and 688(b) (1) of this title. If a special message is transmitted under section 683 of this title during any Congress and the last session of such Congress adjourns sine die before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3) of this section and in section 683 of this title (with respect to such message) shall commence on the day after such first day.

SEC. 683. RESCISSION OF BUDGET AUTHORITY.

(a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the termination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved. Funds made available for obligation under this procedure may not be proposed for rescission again.

SEC. 684. PROPOSED DEFERRALS OF BUDGET AUTHORITY.

(a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the budget authority proposed to be deferred;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

(3) the period of time during which the budget authority is proposed to be deferred;

(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of

time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

(b) CONSISTENCY WITH LEGISLATIVE POLICY.—Deferrals shall be permissible only—

(1) to provide for contingencies;

(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.

(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 683 of this title.

SEC. 685. TRANSMISSION OF MESSAGES; PUBLICATION.

(a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under section 683 or 684 of this title shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(b) DELIVERY TO COMPTROLLER GENERAL.—A copy of each special message transmitted under section 683 or 684 of this title shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 683 and 684 of this title, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practicable with respect to—

(1) in the case of a special message transmitted under section 683 of this title, the facts surrounding the proposed rescission or the reservation of budget authority (including the probable effects thereof); and

(2) in the case of a special message transmitted under section 684 of this title, (A) the facts surrounding each proposed deferral of budget authority (including the probable effects thereof) and (B) whether or not (or to what extent), in his judgment, such proposed deferral is in accordance with existing statutory authority.

(c) TRANSMISSION OF SUPPLEMENTARY MESSAGES.—If any information contained in a special message transmitted under section 683 or 684 of this title is subsequently revised, the President shall transmit to both Houses of Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (a) of this section. The Comptroller General shall promptly notify the House of Representatives and the Senate of any changes in the information submitted by him

under subsection (b) of this section which may be necessitated by such revision.

(d) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under section 683 or 684 of this title, and any supplementary message transmitted under subsection (c) of this section, shall be printed in the first issue of the Federal Register published after such transmittal.

(e) CUMULATIVE REPORTS OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY.—

(1) The President shall submit a report to the House of Representatives and the Senate, not later than the 10th day of each month during a fiscal year, listing all budget authority for that fiscal year with respect to which, as of the first day of such month—

(A) he has transmitted a special message under section 683 of this title with respect to a proposed rescission or a reservation; and

(B) he has transmitted a special message under section 684 of this title proposing a deferral.

Such report shall also contain, with respect to each such proposed rescission or deferral, or each such reservation, the information required to be submitted in the special message with respect thereto under section 683 or 684 of this title.

(2) Each report submitted under paragraph (1) shall be printed in the first issue of the Federal Register published after its submission.

SEC. 686. REPORTS BY COMPTROLLER GENERAL.

(a) FAILURE TO TRANSMIT SPECIAL MESSAGE.—If the Comptroller General finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States—

(1) is to establish a reserve or proposes to defer budget authority with respect to which the President is required to transmit a special message under section 683 or 684 of this title; or

(2) has ordered, permitted, or approved the establishment of such a reserve or a deferral of budget authority;

and that the President has failed to transmit a special message with respect to such reserve or deferral, the Comptroller General shall make a report on such reserve or deferral and any available information concerning it to both Houses of Congress. The provisions of sections 682 to 688 of this title shall apply with respect to such reserve or deferral in the same manner and with the same effect as if such report of the Comptroller General were a special message transmitted by the President under section 683 or 684 of this title, and, for purposes of sections 682 to 688 of this title, such report shall be considered a special message transmitted under section 683 or 684 of this title.

(b) INCORRECT CLASSIFICATION OF SPECIAL MESSAGE.—If the President has transmitted a special message to both Houses of Congress in accordance with section 683 or 684 of this title, and the Comptroller General believes that the President so transmitted

the special message in accordance with one of those sections when the special message should have been transmitted in accordance with the other of those sections, the Comptroller General shall make a report to both Houses of the Congress setting forth his reasons.

SEC. 687. SUITS BY COMPTROLLER GENERAL.

If, under this chapter, budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation. No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate.

SEC. 688. PROCEDURE IN HOUSE OF REPRESENTATIVES AND SENATE.

(a) REFERRAL.—Any rescission bill introduced with respect to a special message or impoundment resolution introduced with respect to a proposed deferral of budget authority shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.

(b) DISCHARGE OF COMMITTEE.—

(1) If the committee to which a rescission bill or impoundment resolution has been referred has not reported it at the end of 25 calendar days of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the same special message or impoundment resolution with respect to the same proposed deferral, as the case may be, which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral, as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and

it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) FLOOR CONSIDERATION IN THE HOUSE.—

(1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of, a rescission bill or impoundment resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on a rescission bill or impoundment resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of a rescission bill or impoundment resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any rescission bill or impoundment resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill or impoundment resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

(d) FLOOR CONSIDERATION IN THE SENATE.—

(1) Debate in the Senate on any rescission bill or impoundment resolution, and all amendments thereto (in the case of a rescission bill) and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a rescission bill shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill or an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor of any such amendment, motion, or appeal, the time in opposition

thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a rescission bill shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a rescission bill or impoundment resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. In the case of a rescission bill, a motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. In the case of an impoundment resolution, no amendment or motion to recommit is in order.

(4) The conference report on any rescission bill shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(5) During the consideration in the Senate of the conference report on any rescission bill, debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(7) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

TITLE 2—THE CONGRESS

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CHAPTER 20—EMERGENCY POWERS TO ELIMINATE BUDGET DEFICITS

SUBCHAPTER I—ELIMINATION OF DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

SEC. 900. STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION; DEFINITIONS.

(a) Omitted.

(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This subchapter provides for the enforcement of the deficit reduction assumed in House Concurrent Resolution 310 (101st Congress, second session) and the applicable deficit targets for fiscal years 1991 through 1995. Enforcement, as necessary, is to be implemented through sequestration—

(1) to enforce discretionary spending levels assumed in that resolution (with adjustments as provided hereinafter);

(2) to enforce the requirement that any legislation increasing direct spending or decreasing revenues be on a pay-as-you-go basis; and

(3) to enforce the deficit targets specifically set forth in the Congressional Budget and Impoundment Control Act of 1974 (with adjustments as provided hereinafter); applied in the order set forth above.

(c) DEFINITIONS.—As used in this subchapter:

(1) The terms "budget authority", "new budget authority", "outlays", and "deficit" have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C.A. Sec. 622] (but including the treatment specified in section 907(b)(3) of this title of the Hospital Insurance Trust Fund) and the terms "maximum deficit amount" and "discretionary spending limit" shall mean the amounts specified in section 601 of that Act [2 U.S.C.A. Sec. 665] as adjusted under sections 901 and 903 of this title.

(2) The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) The term "breach" means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

(4) The term "category" means:

(A) For fiscal years 1991, 1992, and 1993, any of the following subsets of discretionary appropriations: defense, international, or domestic.

Discretionary appropriations in each of the three categories shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.

(B) For fiscal years 1994 and 1995, all discretionary appropriations.

Contributions to the United States to offset the cost of Operation Desert Shield shall not be counted within any category.

(5) The term "baseline" means the projection (described in section 907 of this title) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(6) The term "budgetary resources" means—

(A) with respect to budget year 1991, new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; direct spending authority; and obligation limitations; or

(B) with respect to budget year 1992, 1993, 1994, or 1995, new budget authority; unobligated balances; direct spending authority; and obligation limitations.

(7) The term "discretionary appropriations" means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

(8) The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts;

(B) entitlement authority; and

(C) the food stamp program.

(9) The term "current" means, with respect to OMB estimates included with a budget submission under section 1105(a) of Title 31, the estimates consistent with the economic and technical assumptions underlying that budget and with respect to estimates made after submission of the fiscal year 1992 budget that are not included with a budget submission, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

(10) The term "real economic growth", with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

(11) The term "account" means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President's budget.

(12) The term "budget year" means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

(13) The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(14) The term "outyear" means, with respect to a budget year, any of the fiscal years that follow the budget year through fiscal year 1995.

(15) The term "OMB" means the Director of the Office of Management and Budget.

(16) The term "CBO" means the Director of the Congressional Budget Office.

(17) For purposes of sections 902 and 903 of this title, legislation enacted during the second session of the One Hundred First Congress shall be deemed to have been enacted before the enactment of this Act.

(18) As used in this subchapter, all references to entitlement authority shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990.

(19) The term "deposit insurance" refers to the expenses of the Federal Deposit Insurance Corporation and the funds it incorporates, the Resolution Trust Corporation, the National Credit Union Administration and the funds it incorporates, the Office of Thrift Supervision, the Comptroller of the Currency Assessment Fund, and the RTC Office of Inspector General.

(20) The term "composite outlay rate" means the percent of new budget authority that is converted to outlays in the fiscal year for which the budget authority is provided and subsequent fiscal years, as follows:

(A) For the international category, 46 percent for the first year, 20 percent for the second year, 16 percent for the third year, and 8 percent for the fourth year.

(B) For the domestic category, 53 percent for the first year, 31 percent for the second year, 12 percent for the third year, and 2 percent for the fourth year.

(21) The sale of an asset means the sale to the public of any asset, whether physical or financial, owned in whole or in part by the United States. The term "prepayment of a loan" means payments to the United States made in advance of the schedules set by law or contract when the financial asset is first acquired, such as the prepayment to the Federal Financing Bank of loans guaranteed by the Rural Electrification Administration. If a law or contract allows a flexible payment schedule, the term "in advance" shall mean in advance of the slowest payment schedule allowed under such law or contract.

NOTES

Effective and Termination Dates

Pub. L. 103–66, Title XIV, Sec. 14002(c)(3)(A), Aug. 10, 1993, 107 Stat. 684, provided that: "Notwithstanding section 275(b) of the Bal-

anced Budget and Emergency Deficit Control Act of 1985 [section 275(b) of Pub. L. 99–177, set out as a note under this section], sections 250, 251, 252, and 254 through 258C of that Act [this section, sections 901, 902, and 904 through 908 of this title] shall expire on September 30, 1998."

Executive Order No. 12857

Aug. 4, 1993, 58 F.R. 42181

Budget Control

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 1105 of title 31, United States Code [section 1105 of Title 31, Money and Finance], it is hereby ordered as follows:

SECTION 1.—Purpose. The purpose of this order is to create a mechanism to monitor total costs of direct spending programs, and, in the event that actual or projected costs exceed targeted levels, to require that the budget address adjustments in direct spending.

SEC. 2.—Establishment of Direct Spending Targets.

(a) IN GENERAL.—The initial direct spending targets for each of fiscal years 1994 through 1997 shall equal total outlays for all direct spending except net interest and deposit insurance as determined by the Director of the Office of Management and Budget (Director) under subsection (b).

(b) INITIAL REPORT BY DIRECTOR.—(1) Not later than 30 days after the date of enactment of the Omnibus Budget Reconciliation Act of 1993 (OBRA) [Aug. 10, 1993], the Director shall submit a report to the Congress setting forth projected direct spending targets for each of fiscal years 1994 through 1997.

(2) The Director's projections shall be based on legislation enacted as of 5 days before the report is submitted under paragraph (1). To the extent feasible, the Director shall use the same economic and technical assumptions used in preparing the concurrent resolution on the budget for fiscal year 1994 (H.Con.Res. 64).

(c) Adjustments. Direct spending targets shall be subsequently adjusted by the Director under Section 6.

SEC. 3. Annual Review of Direct Spending and Receipts by President. As part of each budget submitted under section 1105(a) of title 31, United States Code, the Director shall provide an annual review of direct spending and receipts, which shall include (1) information supporting the adjustment of direct spending targets pursuant to Section 6, (2) information on total outlays for programs covered by the direct spending targets, including actual outlays for the prior fiscal year and projected outlays for the current fiscal year and the 5 succeeding fiscal years, and (3) information on the major categories of Federal receipts, including a comparison between the levels of those receipts and the levels projected as of the date of enactment of OBRA [Aug. 10, 1993].

SEC. 4. Special Direct Spending Message by President. (a) TRIGGER.—In the event that the information submitted under Section 3 indicates—

(1) that actual outlays for direct spending in the prior fiscal year exceeded the applicable direct spending target, or

(2) that outlays for direct spending for the current or budget year are projected to exceed the applicable direct spending targets, the Director shall include in the budget a special direct spending message meeting the requirements of subsection (b) of this Section.

(b) CONTENTS.—(1) The special direct spending message shall include:

(A) An explanation of any adjustments to the direct spending targets pursuant to Section 6.

(B) An analysis of the variance in direct spending over the adjusted direct spending targets.

(C) The President's recommendations for addressing the direct spending overages, if any, in the prior, current, or budget year.

(2) The recommendations may consist of any of the following:

(A) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate the overage for the prior, current, and budget years in the current year, the budget year, and the 4 out-years.

(B) Proposed legislative changes to reduce outlays, increase revenues, or both, in order to recoup or eliminate part of the overage for the prior, current, and budget year in the current year, the budget year, and the 4 out-years, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, only some of the overage should be recouped or eliminated by outlay reductions or revenue increases, or both.

(C) A proposal to make no legislative changes to recoup or eliminate any overage, accompanied by a finding by the President that, because of economic conditions or for other specified reasons, no legislative changes are warranted.

(3) Any proposed legislative change under paragraph (2) to reduce outlays may include reductions in direct spending or in the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 [section 665 of this title].

SEC. 5. Proposed Special Direct Spending Resolution. If the President recommends reductions consistent with subsection 4(b)(2)(A) or (B), the special direct spending message shall include the text of a special direct spending resolution implementing the President's recommendations through reconciliation directives instructing the appropriate committees of the House of Representatives and Senate to determine and recommend changes in laws within their jurisdictions to reduce outlays or increase revenues by specified amounts. If the President recommends no reductions pursuant to Section 4(b)(2)(C), the special direct spending message shall include the text of a special resolution concurring in the President's recommendation of no legislative action.

SEC. 6. Adjustments to Direct Spending Targets.

(a) REQUIRED ANNUAL ADJUSTMENTS.—Prior to the submission of the President's budget for each of fiscal years 1995 through 1997, the Director shall adjust the direct spending targets in accordance with this Section. Any such adjustments shall be reflected in the targets used in the report under Section 3 and message (if any) under Section 4.

(b) ADJUSTMENT FOR INCREASES IN BENEFICIARIES.—(1) The Director shall adjust the direct spending targets for increases (if any) in actual or projected numbers of beneficiaries under direct spending programs for which the number of beneficiaries is a variable in determining costs.

(2) The adjustment shall be made by—

(A) computing, for each program under paragraph (1), the percentage change between (i) the annual average number of beneficiaries under that program (including actual numbers of beneficiaries for the prior fiscal year and projections for the budget and subsequent fiscal years) to be used in the President's budget with which the adjustments will be submitted, and (ii) the annual average number of beneficiaries used in the adjustments made by the Director in the previous year (or, in the case of adjustments made in 1994, the annual average number of beneficiaries used in the Director's initial report under Section 2(b));

(B) applying the percentages computed under subparagraph (A) to the projected levels of outlays for each program consistent with the direct spending targets in effect immediately prior to the adjustment; and

(C) adding the results of the calculations required by subparagraph (B) to the direct spending targets in effect immediately prior to the adjustment.

(3) No adjustment shall be made for any program for a fiscal year in which the percentage increase computed under paragraph (2)(A) is less than or equal to zero.

(c) ADJUSTMENTS FOR REVENUE LEGISLATION.—The Director shall adjust the targets as follows:

(1) they shall be increased by the amount of any increase in receipts; or

(2) they shall be decreased by the amount of any decrease in receipts, resulting from receipts legislation enacted after the date of enactment of OBRA [Aug. 10, 1993], except legislation enacted in response to the message transmitted under Section 4.

(d) ADJUSTMENTS TO REFLECT CONGRESSIONAL DECISIONS.—Upon enactment of a reconciliation bill enacted in response to a message submitted under Section 4, the Director shall adjust direct spending targets for the current year, the budget year, and each outyear through 1997 by—

(1) increasing the target for the current year and the budget year by the amount stated for that year in that reconciliation bill (but if a separate vote was required by Congressional rules, only if that vote has occurred); and

(2) decreasing the target for the current, budget, and outyears through 1997 by the amount of reductions in direct spending enacted in that reconciliation bill.

(e) DESIGNATED EMERGENCIES.—The Director shall adjust the targets to reflect the costs of legislation that is designated as an emergency by Congress and the President under section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 [section 902(e) of this title].

SEC. 7. Relationship to Balanced Budget and Emergency Deficit Control Act. Recommendations pursuant to Section 4 shall include

a provision specifying that reductions in outlays or increases in receipts resulting from that legislation shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985 [Pub.L. 99–177; see Tables].

SEC. 8. Estimating Margin. For any fiscal year for which the overage is less than one-half of 1 percent of the direct spending target for that year, the procedures set forth in Section 4 shall not apply.

SEC. 9. Means-Tested Programs. In making recommendations under Section 4, the Director shall seriously consider all other alternatives before proposing reductions in means-tested programs.

SEC. 10. Effective Date. This order shall take effect upon enactment of OBRA [Pub.L. 103–66, which was approved Aug. 10, 1993]. This order shall apply to direct spending targets for fiscal years 1994 through 1997 and shall expire at the end of fiscal year 1997.

WILLIAM J. CLINTON.

SEC. 901. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) FISCAL YEARS 1991–1998 ENFORCEMENT.—

(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under section 902 of this title and section 903 of this title, there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

(2) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category; except that the health programs set forth in section 906(e) of this title shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any military personnel from sequestration under section 905(h) of this title, each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 905(h) of this title has been exercised) shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

(5) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

(6) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach within a category for that year (after taking into account any prior sequestration of amounts within that category), 15 days later there shall be a sequestration to eliminate that breach within that category following the procedures set forth in paragraphs (2) through (4).

(7) OMB ESTIMATES.—As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate, shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation. Within 5 calendar days after the enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation, and an explanation of any difference between the two estimates. For purposes of this paragraph, amounts provided by annual appropriations shall include any new budget authority and outlays for those years in accounts for which funding is provided in that legislation that result from previously enacted legislation. Those OMB estimates shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph for the purposes of this subsection. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

(1) When the President submits the budget under section 1105(a) of Title 31 for budget year 1992, 1993, 1994, 1995, 1996, 1997, or 1998 (except as otherwise indicated), OMB shall

calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1998 to reflect the following:

(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by the amendments made by Title XIII of the Omnibus Budget Reconciliation Act of 1990 or by any other changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such other changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, Government Operations, and Governmental Affairs of the House of Representatives and Senate.

(B) CHANGES IN INFLATION.—

(i) For a budget submitted for budget year 1992, 1993, 1994, or 1995, the adjustments produced by changes in inflation shall equal the levels of discretionary new budget authority and outlays in the baseline (calculated using current estimates) subtracted from those levels in that baseline recalculated with the baseline inflators for the budget year only, multiplied by the inflation adjustment factor computed under clause (ii).

(ii) For a budget year the inflation adjustment factor shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that year set forth below: For 1990, 1.041; for 1991, 1.052; for 1992, 1.041; and for 1993, 1.033.

Inflation shall be measured by the average of the estimated gross national product implicit price deflator index for a fiscal year divided by the average index for the prior fiscal year.

(iii) For a budget submitted for budget year 1996, 1997, or 1998, the adjustments shall be those necessary to reflect changes in inflation estimates since those of March 31, 1993, set forth on page 46 of House Conference Report 103–48.

(C) CREDIT REESTIMATES.—For a budget submitted for fiscal year 1993 or 1994, the adjustments produced by reestimates to costs of Federal credit programs shall be, for any such program, a current estimate of new budget authority and outlays associated with a baseline projection of the prior year's gross loan level for that program minus the baseline projection of the prior year's new budget authority and associated outlays for that program.

(2) When OMB submits a sequestration report under section 904(g) or (h) of this title for fiscal year 1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the sequestration report, and subsequent budgets submitted by the Presi-

dent under section 1105(a) of Title 31, shall include, adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 1998, as follows:

(A) IRS FUNDING.—To the extent that appropriations are enacted that provide additional new budget authority or result in additional outlays (as compared with the CBO baseline constructed in June 1990) for the Internal Revenue Service compliance initiative in any fiscal year, the adjustments for that year shall be those amounts, but shall not exceed the amounts set forth below—

(i) for fiscal year 1991, $191,000,000 in new budget authority and $183,000,000 in outlays; s

(ii) for fiscal year 1992, $172,000,000 in new budget authority and $169,000,000 in outlays;

(iii) for fiscal year 1993, $183,000,000 in new budget authority and $179,000,000 in outlays;

(iv) for fiscal year 1994, $187,000,000 in new budget authority and $183,000,000 in outlays; and

(v) for fiscal year 1995, $188,000,000 in new budget authority and $184,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority.

(B) DEBT FORGIVENESS.—If, in calendar year 1990 or 1991, an appropriation is enacted that forgives the Arab Republic of Egypt's foreign military sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States, the adjustment shall be the estimated costs (in new budget authority and outlays, in all years) of that forgiveness.

(C) IMF FUNDING.—If, in fiscal year 1991, 1992, 1993, 1994, or 1995 an appropriation is enacted to provide to the International Monetary Fund the dollar equivalent, in terms of Special Drawing Rights, of the increase in the United States quota as part of the International Monetary Fund Ninth General Review of Quotas, the adjustment shall be the amount provided by that appropriation.

(D) EMERGENCY APPROPRIATIONS.—

(i) If, for any fiscal year, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations. This subparagraph shall not apply to appropriations to cover agricultural crop disaster assistance.

(ii) The costs for operation Desert Shield are to be treated as emergency funding requirements not subject to the defense spending limits. Funding for Desert Shield will be provided through the normal legislative process. Desert Shield costs should be accommodated through Allied burden-sharing, subsequent appropriation Acts, and if the President so chooses, through off-

sets within other defense accounts. Emergency Desert Shield costs mean those incremental costs associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

(E) SPECIAL ALLOWANCE FOR DISCRETIONARY NEW BUDGET AUTHORITY.—

(i) For each of fiscal years 1992 and 1993, the adjustment for the domestic category in each year shall be an amount equal to 0.1 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the domestic category);

(ii) for each of fiscal years 1992 and 1993, the adjustment for the international category in each year shall be an amount equal to 0.079 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the international category);

(iii) if, for fiscal years 1992 and 1993, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for 1992 and 1993 together) equal to 0.042 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively); and

(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority due to technical estimates made by the director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for any one fiscal year) equal to 0.1 percent of the adjusted descretionary spending limit on new budget authority for that fiscal year.

(F) SPECIAL OUTLAY ALLOWANCE.—If in any fiscal year outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2) of this section, if necessary), the adjustment in outlays is the amount of the excess, but not to exceed $2,500,000,000 in the defense category, $1,500,000,000 in the international category, or $2,500,000,000 in the domestic cat-

egory (as applicable) in fiscal year 1991, 1992, or 1993, and not to exceed $6,500,000,000 in fiscal year 1994 or 1995 less any of the outlay adjustments made under subparagraph (E) for a category for a fiscal year, and not to exceed 0.5 percent of the adjusted descretionary spending limit on outlays for the fiscal year in fiscal year 1996, 1997, or 1998.

(G) NET GUARANTEE COSTS.—The net costs for fiscal year 1994 and 1995 of the appropriation made under section 2186 of Title 22 are not subject to the discretionary spending limits or the Appropriations Committee's Foreign Operations Subcommittee's 602(b) allocation in fiscal year 1994 and 1995.

SEC. 902. ENFORCING PAY-AS-YOU-GO.

(a) FISCAL YEAR 1992–1998 ENFORCEMENT.—The purpose of this section is to assure that any legislation (enacted after November 5, 1990) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

(b) SEQUESTRATION; LOOK-BACK.—Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 901 of this title and section 903 of this title, there shall be a sequestration to offset the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any prior sequestration as provided by paragraph (2)). OMB shall calculate the amount of deficit increase, if any, in those fiscal years by adding—

(1) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) of this section applicable to those fiscal years, other than any amounts included in such estimates resulting from—

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on November 5, 1990, and

(B) emergency provisions as designated under subsection (e) of this section; and

(2) the estimated amount of savings in direct spending programs applicable to those fiscal years resulting from the prior year's sequestration under this section or section 903 of this title, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's end-of-session sequestration report for that prior year.

(c) ELIMINATING A DEFICIT INCREASE.—

(1) The amount required to be sequestered in a fiscal year under subsection (b) of this section shall be obtained from nonexempt direct spending accounts from actions taken in the following order:

(A) FIRST.—All reductions in automatic spending increases specified in section 906(a) of this title shall be made.

(B) SECOND.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 906(b) of this title (guaranteed student loans) and 906(c) of this title (foster care and adoption assistance) shall be made.

(C) THIRD.—

(i) If additional reductions in direct spending accounts are required to be made, each remaining nonexempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 906(d) of this title shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

(ii) For purposes of determining reductions under clause (i), outlay reductions (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

(d) OMB ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation enacted after November 5, 1990, after consultation with the Committees on the Budget of the House of Representatives and the Senate, CBO shall provide OMB with an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from that legislation. Within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after November 5, 1990, OMB shall transmit a report to the House of Representatives and to the Senate containing such CBO estimate of that legislation, an OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998 resulting from that legislation, and an explanation of any difference between the two estimates. Those OMB estimates shall be made using current economic and technical assumptions. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

(e) EMERGENCY LEGISLATION.—If, for any fiscal year from 1991 through 1998, a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years through 1995 resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d) of this section. This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.

SEC. 904. REPORTS AND ORDERS.

(a) TIMETABLE.—The timetable with respect to this subchapter for any budget year is as follows:

Date: Action to be completed:

January 21—Notification regarding optional adjustment of maximum deficit amount.

5 days before the President's budget submission—CBO sequestration preview report.

The President's budget submission—OMB sequestration preview report.

August 10—Notification regarding military personnel.

August 15—CBO sequestration update report.

August 20—OMB sequestration update report.

10 days after end of session—CBO final sequestration report.

15 days after end of session—OMB final sequestration report; Presidential order.

30 days later—GAO compliance report.

(b) SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

(c) OPTIONAL ADJUSTMENT OF MAXIMUM DEFICIT AMOUNTS.—With respect to budget year 1994 or 1995, on the date specified in subsection (a) of this section the President shall notify the House of Representatives and the Senate of his decision regarding the optional adjustment of the maximum deficit amount (as allowed under section 903(g)(1)(B) of this title).

(d) SEQUESTRATION PREVIEW REPORTS.—

(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a) of this section, OMB and CBO shall issue a preview report regarding discretionary, pay-as-you-go, and deficit sequestration based on laws enacted through those dates.

(2) DISCRETIONARY SEQUESTRATION REPORT.—The preview reports shall set forth estimates for the current year and each subsequent year through 1998 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 901 of this title.

(3) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

(A) The amount of net deficit increase or decrease, if any, calculated under subsection 902(b) of this title.

(B) A list identifying each law enacted and sequestration implemented after November 5, 1990, included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 902(c) of this title.

(4) DEFICIT SEQUESTRATION REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

(A) The maximum deficit amount, the estimated deficit calculated under section 903(b) of this title, the excess deficit, and the margin.

(B) The amount of reductions required under section 902 of this title, the excess deficit remaining after those reductions have been made, and the amount of reductions required from defense accounts and the reductions required from non-defense accounts.

(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 903(d) of this title.

(D) The reductions required under sections 903(e)(1) and 903(e)(2) of this title.

(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 903(e)(3) of this title.

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 903(g)(1)(B) of this title.

(5) EXPLANATION OF DIFFERENCES.—The OMB reports shall explain the differences between OMB and CBO estimates for each item set forth in this subsection.

(e) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the date specified in subsection (a) of this section, the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 905(h) of this title.

(f) SEQUESTRATION UPDATE REPORTS.—On the dates specified in subsection (a) of this section, OMB and CBO shall issue a sequestration update report, reflecting laws enacted through those dates, containing all of the information required in the sequestration preview reports.

(g) FINAL SEQUESTRATION REPORTS.—

(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a) of this section, OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

(A) For the current year and each subsequent year through 1998 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 901 of this title.

(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

(C) For each category for which a sequestration is required, the sequestration percentages necessary to achieve the required reduction.

(D) For the budget year, for each account to be sequestered, estimates of the baseline level of sequestrable [FN1] budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions.

(3) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORTS.—The final reports shall contain all the information required in the pay-as-you-go and deficit sequestration preview reports. In addition, these reports shall contain, for the budget year, for each account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear through 1998 for direct spending programs.

(4) REPORTS ON SEQUESTRATION TO REDUCE THE VIOLENT CRIME REDUCTION TRUST FUND.—The final reports shall set forth for the budget year estimates for each of the following:

(A) The amount of budget authority appropriated from the Violent Crime Reduction Trust Fund and outlays resulting from those appropriations.

(B) The sequestration percentage and reductions, if any, required under section 901a of this title.

(5) EXPLANATION OF DIFFERENCES.—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under subsection 902(b) of this title, any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of sequestrable [FN1] resources for any budget account to be reduced if such difference is greater than $5,000,000.

(6) PRESIDENTIAL ORDER.—On the date specified in subsection (a) of this section, if in its final sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(h) WITHIN-SESSION SEQUESTRATION REPORTS AND ORDER.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in paragraph (g)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in paragraphs (g)(2) and (g)(4). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(i) GAO COMPLIANCE REPORT.—On the date specified in subsection (a) of this section, the Comptroller General shall submit to the Congress and the President a report on—

(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

(j) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

(2) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

(k) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of Title 31.

SEC. 905. EXEMPT PROGRAMS AND ACTIVITIES.

(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act [42 U.S.C.A. Sec. 401 et seq.] and benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974 [45 U.S.C.A. Secs. 231b(a), 231(f)(3), 231c(a), and 231c(f)] shall be exempt from reduction under any order issued under this subchapter.

(b) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this subchapter:

National Service Life Insurance Fund (36–8132–0–7–701);

Service-Disabled Veterans Insurance Fund (36–4012–0–3–701);

Veterans Special Life Insurance Fund (36–8455–0–8–701);

Veterans Reopened Insurance Fund (36–4010–0–3–701);

United States Government Life Insurance Fund (36–8150–0–7–701);

Veterans Insurance and Indemnity (36–0120–0–1–701);

Special Therapeutic and Rehabilitation Activities Fund (36–4048–0–3–703);

Veterans' Canteen Service Revolving Fund (36–4014–0–3–705);

Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection

life insurance for certain veterans with service-connected disabilities (36–0137–0–1–702);

Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36–0155–0–1–701);

Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36–0137–0–1–702);

Veterans' compensation (36–0153–0–1–701); and

Veterans' pensions (36–0154–0–1–701).

(c) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this subchapter.

(d) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 [26 U.S.C.A. Sec. 32] shall be exempt from reduction under any order issued under this subchapter.

(e) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.

(f) CERTAIN PROGRAM BASES.—Outlays for programs specified in paragraph (1) of section 907 of this title shall be subject to reduction only in accordance with the procedures established in section 901(a)(3)(C) and 906(b) of this title.

(g) OTHER PROGRAMS AND ACTIVITIES.—(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this subchapter:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

Thrift Savings Fund (26–8141–0–7–602);

Alaska Power Administration, Operations and maintenance (89–0304–0–1–271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93–454 (1974), as amended (89–4045–0–3–271);

Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense (97–0102–0–1–051);

Claims, judgments, and relief acts (20–1895–0–1–806);

Coinage profit fund (20–5811–0–2–803);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9922–0–2–852);

Comptroller of the Currency;

Director of the Office of Thrift Supervision;

Dual benefits payments account (60–0111–0–1–601);

Eastern Indian land claims settlement fund (14–2202–0–1–806);

Exchange stabilization fund (20–4444–0–3–155);

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Federal Deposit Insurance Corporation;

Federal Deposit Insurance Corporation, Bank Insurance Fund;

Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

Federal Housing Finance Board;

Federal payment to the railroad retirement account (60–0113–0–1–601);

Foreign military sales trust fund (11–8242–0–7–155);

Health professions graduate student loan insurance fund (Health Education Assistance Loan Program) (75–4305–0–3–553);

Higher education facilities loans and insurance (91–0240–0–1–502);

Internal Revenue Collections for Puerto Rico (20–5737–0–2–852);

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

Panama Canal Commission, operating expenses (95–5190–0–2–403), and Panama Canal Commission, capital outlay (95–5190–0–2–403);

Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75–4430–0–3–551);

National Credit Union Administration;

National Credit Union Administration, central liquidity facility;

National Credit Union Administration, credit union share insurance fund;

Payment of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payment to civil service retirement and disability fund (24–0200–0–1–805);

Payment to Judiciary Trust Funds (10–0941–0–1–752);

Payments to copyright owners (03–5175–0–2–376);

Payments to health care trust funds (75–0580–0–1–572);

Payments to military retirement fund (97–0040–0–1–054);

Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

Payments to social security trust funds (75–0404–0–1–571);

Payments to state and local government fiscal assistance trust fund (20–2111–0–1–851);

Payments to the foreign service retirement and disability fund (11–1036–0–1–153 and 19–0540–0–1–153);

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

Payments to the United States territories, fiscal assistance (14–0418–0–1–852);

Payments to widows and heirs of deceased Members of Congress (00–0215–0–1–801);

Postal service fund (18–4020–0–3–372);

Resolution Funding Corporation;

Resolution Trust Corporation;

Salaries of Article III judges;

Soldiers and Airmen's Home, payment of claims (84–8930–0–7–705);

Southeastern Power Administration, Operations and maintenance (89–0302–0–1–271);

Southwestern Power Administration, Operations and maintenance (89–0303–0–1–271);

Tennessee Valley Authority fund, except non-power programs and activities (64–4110–0–3–999);

United States Enrichment Corporation;

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401);

Western Area Power Administration, Construction, rehabilitation, operations, and maintenance (89–5068–0–2–271); and

Western Area Power Administration, Colorado River basins power marketing fund (89–4452–0–3–271).

(B) The following budget accounts and activities shall be exempt from reduction under any order issued under this subchapter:

Black lung benefits (20–8144–0–7–601);

Central Intelligence Agency retirement and disability system fund (56–3400–0–1–054);

Civil service retirement and disability fund (24–8135–0–7–602);

Comptrollers general retirement system (05–0107–0–1–801);

Court of Federal Claims Judges' Retirement Fund (10–8124–0–7–602);

Foreign service retirement and disability fund (19–8186–0–7–602);

Judicial survivors' annuities fund (10–8110–0–7–602);

Judicial Officers' Retirement Fund (10–8122–0–7–602);

Longshoremen's and harborworkers' compensation benefits (16–9971–0–7–601);

Military retirement fund (97–8097–0–7–602);

National Oceanic and Atmospheric Administration retirement (13–1450–0–1–306);

Pensions for former Presidents (47–0105–0–1–802);

Railroad retirement tier II (60–8011–0–7–601);

Railroad supplemental annuity pension fund (60–8012–0–7–602);

Retired pay, Coast Guard (69–0241–0–1–403);

Retirement pay and medical benefits for commissioned officers, Public Health Service (75–0379–0–1–551);

Special benefits, Federal Employees' Compensation Act (16–1521–0–1–600);

Special benefits for disabled coal miners (75–0409–0–1–601);

Tax Court judges survivors annuity fund (23–8115–0–7–602).

(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this subchapter:

Agency for International Development, Housing, and other credit guarantee programs (72–4340–0–3–151);

Agricultural credit insurance fund (12–4140–0–3–351);

Biomass energy development (20–0114–0–1–271);

Check forgery insurance fund (20–4109–0–3–803);

Community development grant loan guarantees (86–0162–0–1–451);

Credit union share insurance fund (25–4468–0–3–371);

Economic development revolving fund (13–4406–0–3–452);

Employees life insurance fund (24–8424–0–8–602);

Energy security reserve (Synthetic Fuels Corporation) (20–0112–0–1–271);

Export-Import Bank of the United States, Limitation of program activity (83–4027–0–3–155);

Federal Aviation Administration, Aviation insurance revolving fund (69–4120–0–3–402);

Federal Crop Insurance Corporation fund (12–4085–0–3–351);

Federal Deposit Insurance Corporation (51–8419–0–8–371);

Federal Emergency Management Agency, National flood insurance fund (58–4236–0–3–453);

Federal Emergency Management Agency, National insurance development fund (58–4235–0–3–451);

Federal Housing Administration fund (86–4070–0–3–371);

Federal ship financing fund (69–4301–0–3–403);

Federal ship financing fund, fishing vessels (13–4417–0–3–376);

Geothermal resources development fund (89–0206–0–1–271);

Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

Health education loans (75–4307–0–3–553);

Homeowners assistance fund, Defense (97–4090–0–3–051);

Indian loan guarantee and insurance fund (14–4410–0–3–452);

International Trade Administration, Operations and administration (13–1250–0–1–376);

Low-rent public housing, Loans and other expenses (86–4098–0–3–604);

Maritime Administration, War-risk insurance revolving fund (69–4302–0–3–403);

Overseas Private Investment Corporation (71–4030–0–3–151);

Pension Benefit Guaranty Corporation fund (16–4204–0–3–601);

Rail service assistance (69–0122–0–1–401);

Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

Rural development insurance fund (12–4155–0–3–452);

Rural electric and telephone revolving fund (12–4230–8–3–271);

Rural housing insurance fund (12–4141–0–3–371);

Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

Department of Veterans Affairs, Loan guaranty revolving fund (36–4025–0–3–704); and

Department of Veterans Affairs, Servicemen's group life insurance fund (36–4009–0–3–701).

(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this subchapter:

Aid to families with dependent children (75–0412–0–1–609);

Child nutrition (12–3539–0–1–605);

Commodity supplemental food program (12–3512–0–1–605);

Food stamp programs (12–3505–0–1–605 and 12–3550–0–1–605);

Grants to States for Medicaid (75–0512–0–1–551);

Supplemental Security Income Program (75–0406–0–1–609); and

Women, infants, and children program (12–3510–0–1–605).

(i) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

(j) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (g) and (h) of this section, programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government, 1986—Appendix.

SEC. 906. EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.

(a) AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

(1) National Wool Act [7 U.S.C.A. Sec. 1781 et seq.];

(2) Special milk program; and

(3) Vocational rehabilitation basic State grants.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this subchapter.

(b) EFFECT OF ORDERS ON THE GUARANTEED STUDENT LOAN PROGRAM.—

(1) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965 [20 U.S.C.A. Sec. 1071

et seq.], as a consequence of an order issued pursuant to section 904 of this title, shall be achieved only from loans described in paragraphs (2) and (3) by the application of the measures described in such paragraphs.

(2) For any loan made during the period beginning on the date that an order issued under section 904 of this title takes effect with respect to a fiscal year and ending at the close of such fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act [20 U.S.C.A. Sec. 1087–1(b)(2)(A)(iii)] for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of—

(A) 0.40 percent, or

(B) the percentage by which the rate specified in such section exceeds 3 percent.

(3) For any loan made during the period beginning on the date that an order issued under section 904 of this title takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act [20 U.S.C.A. Sec. 1087–1(c)(2)] shall be increased by 0.50 percent.

(c) TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any order issued by the President under section 904 of this title shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act [42 U.S.C.A. Sec. 670 et seq.]) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act [42 U.S.C.A. Sec. 674] (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage. No State may, after December 12, 1985, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act [42 U.S.C.A. Sec. 670 et seq.] which has the effect of changing the fiscal year in which expenditures under such part are made.

(d) SPECIAL RULES FOR MEDICARE PROGRAM.—

(1) CALCULATION OF REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by sections 902 of this title and 903 of this title, and notwithstanding section 710 of the Social Security Act [42 U.S.C.A. Sec. 911], OMB shall determine, and the applicable Presidential order under section 904 of this title shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act [42 U.S.C.A. Sec. 1395 et seq.] for

services furnished after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

(2) TIMING OF APPLICATION OF REDUCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) PAYMENT ON BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act [42 U.S.C.A. Sec. 1395 et seq.] on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1), in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act [42 U.S.C.A. Sec. 1395j et seq.] is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) [42 U.S.C.A. Sec. 1395u(b)(3)(B)(ii)], in accordance with section 1842(b)(6)(B) [42 U.S.C.A. Sec. 1395u(b)(6)(B)], or under the procedure described in section 1870(f)(1) [42 U.S.C.A Sec. 1395gg(f)(1)], of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(4) NO EFFECT ON COMPUTATION OF ADJUSTED AVERAGE PER CAPITA COST.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act [42 U.S.C.A. Sec. 1395mm(a)(4)], the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this subchapter.

(e) COMMUNITY AND MIGRANT HEALTH CENTERS, INDIAN HEALTH SERVICES AND FACILITIES, AND VETERAN'S MEDICAL CARE.—

(1) The maximum permissible reduction in budget authority for any account listed in paragraph (2) for any fiscal year, pursuant to an order issued under section 902 of this title, shall be—

(A) 1 percent in the case of the fiscal year 1986, and

(B) 2 percent in the case of any subsequent fiscal year.

(2) The accounts referred to in paragraph (1) are as follows:

(A) Community health centers (75–0350–0–1–550).

(B) Migrant health centers (75–0350–0–1–550).

(C) Indian health facilities (75–0391–0–1–551).

(D) Indian health services (75–0390–0–1–551).

(E) Veterans' medical care (36–0160–0–1–703).

For purposes of the preceding provisions of this paragraph, programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government—Appendix.

(f) TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM.—Notwithstanding any change in the display of budget accounts, any order issued by the President under section 904 of this title shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act [42 U.S.C.A. Secs. 655 and 658] by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act [42 U.S.C.A. Sec. 655(a)], to the extent necessary to reduce such expenditures by that amount.

(g) FEDERAL PAY.—

(1) IN GENERAL.—For purposes of any order issued under section 904 of this title—

(A) Federal pay under a statutory pay system, and

(B) elements of military pay,

shall be subject to reduction under an order in the same manner as other administrative expense components of the Federal budget; except that no such order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any such statutory pay system (as increased by any amount payable under section 5304 of Title 5, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under Title 37, or any increase in rates of pay which is scheduled to take effect under section 5303 of Title 5, section 1009 of Title 37, or any other provision of law.

(2) DEFINITIONS.—For purposes of this subsection:

(A) The term "statutory pay system" shall have the meaning given that term in section 5302(1) of Title 5.

(B) The term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of Title 37,

(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

(iii) cadet pay and midshipman pay under section 203(c) of such title.

(C) The term "uniformed services" shall have the meaning given that term in section 101(3) of Title 37.

(h) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—

(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies,

including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 904 of this title, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this subchapter.

(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this joint resolution.

(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this subchapter to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) of this section shall be subject to reduction or sequestration under this subchapter notwithstanding the exemption otherwise granted to such programs under that subsection.

(4) Notwithstanding any other provision of law, this subsection shall not apply with respect to the following:

(A) Comptroller of the Currency.

(B) Federal Deposit Insurance Corporation.

(C) Office of Thrift Supervision.

(D) Office of Thrift Supervision.

(E) National Credit Union Administration.

(F) National Credit Union Administration, central liquidity facility.

(G) Federal Retirement Thrift Investment Board.

(H) Resolution Funding Corporation.

(I) Resolution Trust Corporation.

(i) TREATMENT OF PAYMENTS AND ADVANCES MADE WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS.—

(1) For purposes of section 904 of this title—

(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act [42 U.S.C.A. Sec. 1104(a)]),

(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act [42 U.S.C.A. Sec. 1104(g)]) under title XII of such Act [42 U.S.C.A. Sec. 1321 et seq.] and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act [42 U.S.C.A. Sec. 1323], and

(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act [42 U.S.C.A. Sec. 1109]) for the purpose of carrying out chapter 85 of Title 5 [5 U.S.C.A. Sec. 8501 et seq.] and funds appropriated or transferred to or otherwise deposited in such Account, shall not be subject to reduction.

(2)(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 [26 U.S.C.A. Sec. 3304 note] for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 904 of this title by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(B) A reduction by a State in accordance with subparagraph (A) shall be not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954 [26 U.S.C.A. Sec. 3304(A)(11)].

(j) COMMODITY CREDIT CORPORATION.—

(1) POWERS AND AUTHORITIES OF COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

(2) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—

(A) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 904 of this title shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments made by the Commodity Credit Corporation—

(i) under the terms of any one-year contract entered into in such fiscal year and after the issuance of the order; and

(ii) out of an entitlement account,

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

(B) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 904 of this title, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (3).

(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this joint resolution, if an order under section 904 of this title is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order applies. No other account, or other program, project, or activity, shall bear an increased reduction for the fiscal year to which the order applies as a result of the operation of the preceding sentence.

(4) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 904 of this title with respect to a fiscal year—

(A) shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

(B) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that—

(i) uncertainty as to the scope of benefits under any such program is minimized;

(ii) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and

(iii) normal production and marketing relationships among agricultural commodities (including both contract and non-contract commodities) are not distorted.

In meeting the criterion set out in clause (iii) of subparagraph (B) of the preceding sentence, the President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

(5) NO DOUBLE REDUCTION.—No agricultural price support or income protection program that is subject to reduction under an order issued under section 904 of this title for a fiscal year may be subject, as well, to modification or suspension under such order as an automatic spending increase.

(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with budget authority to cover the Corporation's net realized losses.

(k) SPECIAL RULES FOR THE JOBS PORTION OF AFDC.—

(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any order issued by the President under section 904 of this title shall accomplish the full amount of any required sequestration of the job opportunities and basic skills training program under section 402(a)(19) [42 U.S.C.A. Sec. 602(a)(19)], and part F of title

VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act [42 U.S.C.A. Sec. 603(l)].

(2) NEW ALLOTMENT FORMULA.—

(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act [42 U.S.C.A. Sec. 603(k)], each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act [42 U.S.C.A. Sec. 603(l)] for the fiscal year to which the sequestration applies shall be equal to—

(I) that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) [42 U.S.C.A. Sec. 603(l)] for the prior fiscal year; or

(II) the amount that would have been allotted to such State pursuant to such section 403(k) [42 U.S.C.A. Sec. 603(k)] had the sequestration not been in effect.

(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act [42 U.S.C.A. Sec. 603(l)] for the fiscal year to which the sequestration applies that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) [42 U.S.C.A. Sec. 603(k)] of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) [42 U.S.C.A. Sec. 603(k)] had the sequestration not been in effect.

(l) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account other than a trust or special fund account shall be permanently cancelled.

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account,

program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

(4) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

(6) Except as otherwise provided, sequestration in trust and special fund accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration are reduced, from the level that would actually have occurred, by the applicable sequestration percentage.

SEC. 907. THE BASELINE.

(a) IN GENERAL.—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

(b) DIRECT SPENDING AND RECEIPTS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

(1) IN GENERAL.—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

(2) EXCEPTIONS.—

(A) No program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears.

(B) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

(3) HOSPITAL INSURANCE TRUST FUND.—Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

(c) DISCRETIONARY APPROPRIATIONS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b) of this section:

(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet

been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), to offset pay absorption and for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

(2) EXPIRING HOUSING CONTRACTS.—New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.

(3) SOCIAL INSURANCE ADMINISTRATIVE EXPENSES.—Budgetary resources for the administrative expenses of the following trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year: the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account.

(4) PAY ANNUALIZATION; OFFSET TO PAY ABSORPTION.—Current-year new budget authority for Federal employees shall be adjusted to reflect the full 12-month costs (without absorption) of any pay adjustment that occurred in that fiscal year.

(5) INFLATORS.—The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (wages and salaries, private industry workers) for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross national product fixed-weight price index for that fiscal year differs from the average of such estimated index for the current year.

(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

(d) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.

(e) SALE OF ASSETS OR PREPAYMENT OF LOANS.—The sale of an asset or prepayment of a loan shall not alter the deficit or produce any net deficit reduction in the budget baseline, except that the

budget baseline estimate shall include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

SEC. 907A. SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.

(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

(1) TRIGGER.—Whenever CBO issues a low-growth report under section 254(j), the Majority Leader of the House of Representatives may, and the Majority Leader of the Senate shall, introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 254(j) are met and suspending the relevant provisions of this title, titles III and VI of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

(2) FORM OF JOINT RESOLUTION.—

(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: That the Congress declares that the conditions specified in section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(B) The title of the joint resolution shall be "Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985."; and the joint resolution shall not contain any preamble.

(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House of Representatives or the Committee on the Budget of the Senate, as the case may be; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

(4) CONSIDERATION OF JOINT RESOLUTION.—

(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

(B) (i) In the Senate, a joint resolution under this paragraph shall be privileged. It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

(b) SUSPENSION OF SEQUESTRATION PROCEDURES.—Upon the enactment of a declaration of war or a joint resolution described in subsection (a)—

(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

(2) sections 302(f), 310(d), 311(a), and title VI of the Congressional Budget Act of 1974 are suspended; and

(3) section 1103 of title 31, United States Code, is suspended.

(c) RESTORATION OF SEQUESTRATION PROCEDURES.—

(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b) triggered by that declaration of war are no longer effective.

(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a), then, effective with regard to the first fiscal year

beginning at least 12 months after the enactment of that resolution, the provisions of subsection (b) triggered by that resolution are no longer effective.

SEC. 907B. MODIFICATION OF PRESIDENTIAL ORDER.

(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a final sequestration report under section 904 of this title for a fiscal year, but before the close of the twentieth calendar day of the session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 904 of this title or provide an alternative to reduce the deficit for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

(1) REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate under subsection (a) of this section shall not be referred to a committee of the Senate and shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

(2) CONSIDERATION IN THE SENATE.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a) of this section, notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

(3) DEBATE IN THE SENATE.—

(A) In the Senate, debate on a joint resolution introduced under subsection (a) of this section, amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed

to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

(C) (i) No amendment that is not germane to the provisions of the joint resolution or to the order issued under section 904 of this title shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a) of this section, a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

(5) APPEALS.—Appeals from the decisions of the Chair shall be decided without debate.

(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 [2 U.S.C.A. Secs. 631 et seq., 651 et seq., and 665 et seq.] are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a) of this section, the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) of this section, then the following procedures shall apply:

(A) The joint resolution of the House of Representatives shall not be referred to a committee and shall be placed on the calendar.

(B) With respect to a joint resolution introduced under subsection (a) of this section in the Senate—

(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) of this section after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

SEC. 907C. FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.

(a) REDUCTIONS BEYOND AMOUNT SPECIFIED IN PRESIDENTIAL ORDER.—Subject to subsections (b), (c), and (d) of this section, new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under section 904 of this title for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subsection, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 904 of this title.

(b) BASE CLOSURES PROHIBITED.—No actions taken by the President under subsection (a) of this section for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of Title 10.

(c) REPORT AND JOINT RESOLUTION REQUIRED.—The President may not exercise the authority provided by this paragraph for a fiscal year unless—

(1) the President submits a single report to Congress specifying, for each account, the detailed changes proposed to be made for such fiscal year pursuant to this section;

(2) that report is submitted within 5 calendar days of the start of the next session of Congress; and

(3) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

(d) INTRODUCTION OF JOINT RESOLUTION.—Within 5 calendar days of session after the President submits a report to Congress under subsection (c)(1) of this section for a fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

(e) FORM AND TITLE OF JOINT RESOLUTION.—

(1) The matter after the resolving clause in any joint resolution introduced pursuant to subsection (d) of this section shall be as follows: "That the report of the President as submitted on [Insert Date] under section 258B is hereby approved."

(2) The title of the joint resolution shall be "Joint resolution approving the report of the President submitted under section 258B of the Balanced Budget and Emergency Deficit Control Act of 1985."

(3) Such joint resolution shall not contain any preamble.

(f) CALENDARING AND CONSIDERATION OF JOINT RESOLUTION IN THE SENATE.—

(1) A joint resolution introduced in the Senate under subsection (d) of this section shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment proposed in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 904 of this title. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense).

(2) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is placed on the Senate calendar, notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is not debatable. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

(g) DEBATE OF JOINT RESOLUTION; MOTIONS.—

(1) In the Senate, debate on a joint resolution introduced under subsection (d) of this section, amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

(2) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order.

(h) AMENDMENT OF JOINT RESOLUTION.—

(1) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 904 of this title shall be in order in the Senate. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense). In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

(2) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended, so long as the amendment makes or maintains mathematical consistency. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(3) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subsection (d) of this section or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

(4) For purposes of the application of paragraph (3), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(i) VOTE ON FINAL PASSAGE OF JOINT RESOLUTION.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (d) of this section, a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amend-

ments under subsection (h) of this section, the vote on final passage of the joint resolution shall occur.

(j) APPEAL FROM DECISION OF CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (d) of this section shall be decided without debate.

(k) CONFERENCE REPORTS.—In the Senate, points of order under titles III [2 U.S.C.A. Sec. 631 et seq.] and IV [2 U.S.C.A. Sec. 651 et seq.] of the Congressional Budget Act of 1974 (including points of order under sections 302(c) [2 U.S.C.A. Sec. 633(c)], 303(a) [2 U.S.C.A. Sec. 634(a)], 306 [2 U.S.C.A. Sec. 637], and 401(b)(1) [2 U.S.C.A. Sec. 651(b)(1)]) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(l) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (d) of this section, the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) of this section, then the following procedures shall apply:

(1) The joint resolution of the House of Representatives shall not be referred to a committee.

(2) With respect to a joint resolution introduced under subsection (d) of this section in the Senate—

(A) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(B)(i) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(ii) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

(3) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

(m) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) of this section after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

SEC. 907D. SPECIAL RECONCILIATION PROCESS.

(a) REPORTING OF RESOLUTIONS AND RECONCILIATION BILLS AND RESOLUTIONS, IN THE SENATE.—

(1) COMMITTEE ALTERNATIVES TO PRESIDENTIAL ORDER.—After the submission of an OMB sequestration update report under section 904 of this title that envisions a sequestration

under section 902 of this title or 903 of this title, each standing committee of the Senate may, not later than October 10, submit to the Committee on the Budget of the Senate information of the type described in section 632(d) of this title with respect to alternatives to the order envisioned by such report insofar as such order affects laws within the jurisdiction of the committee.

(2) INITIAL BUDGET COMMITTEE ACTION.—After the submission of such a report, the Committee on the Budget of the Senate may, not later than October 15, report to the Senate a resolution. The resolution may affirm the impact of the order envisioned by such report, in whole or in part. To the extent that any part is not affirmed, the resolution shall state which parts are not affirmed and shall contain instructions to committees of the Senate of the type referred to in section 641(a) of this title, sufficient to achieve at least the total level of deficit reduction contained in those sections which are not affirmed.

(3) RESPONSE OF COMMITTEES.—Committees instructed pursuant to paragraph (2), or affected thereby, shall submit their responses to the Budget Committee no later than 10 days after the resolution referred to in paragraph (2) is agreed to, except that if only one such Committee is so instructed such Committee shall, by the same date, report to the Senate a reconciliation bill or reconciliation resolution containing its recommendations in response to such instructions. A committee shall be considered to have complied with all instructions to it pursuant to a resolution adopted under paragraph (2) if it has made recommendations with respect to matters within its jurisdiction which would result in a reduction in the deficit at least equal to the total reduction directed by such instructions.

(4) BUDGET COMMITTEE ACTION.—Upon receipt of the recommendations received in response to a resolution referred to in paragraph (2), the Budget Committee shall report to the Senate a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revisions. In the event that a committee instructed in a resolution referred to in paragraph (2) fails to submit any recommendation (or, when only one committee is instructed, fails to report a reconciliation bill or resolution) in response to such instructions, the Budget Committee shall include in the reconciliation bill or reconciliation resolution reported pursuant to this subparagraph legislative language within the jurisdiction of the noncomplying committee to achieve the amount of deficit reduction directed in such instructions.

(5) POINT OF ORDER.—It shall not be in order in the Senate to consider any reconciliation bill or reconciliation resolution reported under paragraph (4) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

(A) the enactment of such bill or resolution as reported;

(B) the adoption and enactment of such amendment; or

(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year, unless

the low-growth report submitted under section 904 of this title projects negative real economic growth for such fiscal year, or for each of any two consecutive quarters during such fiscal year.

(6) TREATMENT OF CERTAIN AMENDMENTS.—In the Senate, an amendment which adds to a resolution reported under paragraph (2) an instruction of the type referred to in such paragraph shall be in order during the consideration of such resolution if such amendment would be in order but for the fact that it would be held to be non-germane on the basis that the instruction constitutes new matter.

(7) DEFINITION.—For purposes of paragraphs (1), (2), and (3), the term "day" shall mean any calendar day on which the Senate is in session.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the Senate the provisions of sections 636 and 641 of this title for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of resolutions, and reconciliation bills and reconciliation resolutions reported under this paragraph and conference reports thereon.

(2) LIMIT ON DEBATE.—Debate in the Senate on any resolution reported pursuant to subsection (a)(2) of this section, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours.

(3) LIMITATION ON AMENDMENTS.—Section 636(d)(2) of this title shall apply to reconciliation bills and reconciliation resolutions reported under this subsection.

(4) BILLS AND RESOLUTIONS RECEIVED FROM THE HOUSE.—Any bill or resolution received in the Senate from the House, which is a companion to a reconciliation bill or reconciliation resolution of the Senate for the purposes of this subsection, shall be considered in the Senate pursuant to the provisions of this subsection.

(5) DEFINITION.—For purposes of this subsection, the term "resolution" means a simple, joint, or concurrent resolution.

SEC. 908. MODIFICATION OF PRESIDENTIAL ORDER.

(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a report under section 901(c)(2) of this title for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 902 of this title for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

(1) NO REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate or the House of Representatives under

subsection (a) of this section shall not be referred to a committee of the Senate or the House of Representatives, as the case may be, and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

(2) IMMEDIATE CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a) of this section, notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III [2 U.S.C.A. Sec. 631 et seq.] or IV [2 U.S.C.A. Sec. 651 et seq.] of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE—

(A) In the Senate, debate on a joint resolution introduced under subsection (a) of this section, amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subsection (a) of this section shall be limited to not more than 4 hours which shall be equally divided between the majority and minority leaders.

(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit is in order.

(C)(i) In the House of Representatives, an amendment and any amendment thereto is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 902(b)(1) of this title shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a) of this section, a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under paragraph (3) (except for the motion to recommit in the House of Representatives), the vote on final passage of the joint resolution shall occur.

(5) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) of this section shall be decided without debate.

(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III [2 U.S.C.A. Sec. 631 et seq.] and IV [2 U.S.C.A. Sec. 651 et seq.] of the Congressional Budget Act of 1974 (including points of order under sections 302(c) [2 U.S.C.A. Sec. 633(c)], 303(a) [2 U.S.C.A. Sec. 634(a)], 306 [2 U.S.C.A. Sec. 637], and 401(b)(1) [2 U.S.C.A. Sec. 651(b)(1)]) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a) of this section, the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), of this section, then the following procedures shall apply:

(A) The joint resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a joint resolution introduced under subsection (a) of this section in the Senate—

(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) of this section after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

SELECTED PROVISIONS OF TITLE 5, UNITED STATES CODE— GOVERNMENT ORGANIZATION AND EMPLOYEES

Table of Sections of Selected Provisions of Title 5[8]

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[8] This table of sections is not part of Title 5 but is included for the convenience of the reader.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART I—THE AGENCIES GENERALLY

CHAPTER 1—ORGANIZATION

SEC. 101. EXECUTIVE DEPARTMENTS.

The Executive departments are:

The Department of State.
The Department of the Treasury.
The Department of Defense.
The Department of Justice.
The Department of the Interior.
The Department of Agriculture.
The Department of Commerce.
The Department of Labor.
The Department of Health and Human Services.
The Department of Housing and Urban Development.
The Department of Transportation.
The Department of Energy.
The Department of Education.
The Department of Veterans Affairs.

SEC. 102. MILITARY DEPARTMENTS.

The military departments are:

The Department of the Army.
The Department of the Navy.
The Department of the Air Force.

SEC. 103. GOVERNMENT CORPORATION.

For the purpose of this title—

(1) "Government corporation" means a corporation owned or controlled by the Government of the United States; and

(2) "Government controlled corporation" does not include a corporation owned by the Government of the United States.

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The following list shows the section of 5 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

5 U.S.C.	Requirements or Guidelines
102	32 C.F.R. 626, 627

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART I—THE AGENCIES GENERALLY

CHAPTER 3—POWERS

SEC. 306. STRATEGIC PLANS.

(a) No later than September 30, 1997, the head of each agency shall submit to the Director of the Office of Management and Budget and to the Congress a strategic plan for program activities. Such plan shall contain—

(1) a comprehensive mission statement covering the major functions and operations of the agency;

(2) general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the agency;

(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

(4) a description of how the performance goals included in the plan required by section 1115(a) of title 31 shall be related to the general goals and objectives in the strategic plan;

(5) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

(6) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

(b) The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

(c) The performance plan required by section 1115 of title 31 shall be consistent with the agency's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

(d) When developing a strategic plan, the agency shall consult with the Congress, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan.

(e) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of strategic plans under this section shall be performed only by Federal employees.

(f) For purposes of this section the term "agency" means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the Postal Rate Commission.

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART I—THE AGENCIES GENERALLY

CHAPTER 5—ADMINISTRATIVE PROCEDURE

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

SEC. 551. DEFINITIONS.

For the purpose of this subchapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia;

or except as to the requirements of section 552 of this title—

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; subchapter II of chapter 471 of title 49; or sections 1884, 1891–1902, and former section 1641(b)(2), of title 50, appendix;

(2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;

(3) "party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

(5) "rule making" means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

(10) "sanction" includes the whole or a part of an agency—

(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of, and beneficial to, a person;

(12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section;

(13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act; and

(14) "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this subchapter.

SEC. 552A. RECORDS MAINTAINED ON INDIVIDUALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(8) the term "matching program"—

(A) means any computerized comparison of—

(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

(II) recouping payments or delinquent debts under such Federal benefit programs, or

(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

(B) but does not include—

(i) matches performed to produce aggregate statistical data without any personal identifiers;

(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of

intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

(v) matches—

(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel

(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel; or

(vii) matches performed pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986 and section 1144 of the Social Security Act;

(9) the term "recipient agency" means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

(10) the term "non-Federal agency" means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

(11) the term "source agency" means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

(12) the term "Federal benefit program" means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

(13) the term "Federal personnel" means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of

communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) pursuant to the order of a court of competent jurisdiction; or

(12) to a consumer reporting agency in accordance with section 3711(f) of title 31.

(c) ACCOUNTING OF CERTAIN DISCLOSURES.—Each agency, with respect to each system of records under its control, shall—

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) ACCESS TO RECORDS.—Each agency that maintains a system of records shall—

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and—

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either—

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing

official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) AGENCY REQUIREMENTS.—Each agency that maintains a system of records shall—

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include—

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(I) the categories of sources of records in the system;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;

(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency; and

(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.

(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)(1) CIVIL REMEDIES.—Whenever any agency—

(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any

case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) RIGHTS OF LEGAL GUARDIANS.—For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)(1) CRIMINAL PENALTIES.—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e) (6), (7), (9), (10), and (11), and (i) if the system of records is—

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) SPECIFIC EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of this section if the system of records is—

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this sec-

tion, under an implied promise that the identity of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(l)(1) ARCHIVAL RECORDS.—Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Archivist of the United States shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4) (A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4) (A) through (G) and (e)(9) of this section.

(m)(1) GOVERNMENT CONTRACTORS.—When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2) A consumer reporting agency to which a record is disclosed under section 3711(f) of title 31 shall not be considered a contractor for the purposes of this section.

(n) MAILING LISTS.—An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

(A) the purpose and legal authority for conducting the program;

(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii) applicants for and holders of positions as Federal personnel, that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E) procedures for verifying information produced in such matching program as required by subsection (p);

(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii) be available upon request to the public.

(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

(i) such program will be conducted without any change; and

(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

(A)(i) the agency has independently verified the information; or

(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source

agency determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

(A) the amount of any asset or income involved;

(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

(C) the period or periods when the individual actually had such asset or income.

(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

(2) No source agency may renew a matching agreement unless—

(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(B) the source agency has no reason to believe that the certification is inaccurate.

(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

(s) BIENNIAL REPORT.—The President shall biennially submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—

(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding 2 years;

(2) describing the exercise of individual rights of access and amendment under this section during such years;

(3) identifying changes in or additions to systems of records;

(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.

(t) EFFECT OF OTHER LAWS.—(1) No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.

(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

(3) EACH DATA INTEGRITY BOARD.—

(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

(i) matching programs in which the agency has participated as a source agency or recipient agency;

(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

(iii) any changes in membership or structure of the Board in the preceding year;

(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

(H) may review and report on any agency matching activities that are not matching programs.

(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

(ii) there is adequate evidence that the matching agreement will be cost-effective; and

(iii) the matching program is in the public interest.

(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.

(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

(2) provide continuing assistance to and oversight of the implementation of this section by agencies.

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The following list shows the section of 5 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

5 U.S.C.	Requirements or Guidelines
551 et seq	14 C.F.R. 201, 211; 16 C.F.R. 1025; 18 C.F.R. 281, 286; 22 C.F.R. 171; 29 C.F.R. 1910; 40 C.F.R. 124; 43 C.F.R. 4, 2650
551–559	29 C.F.R. 511; 31 C.F.R. 8, 10
51–558	21 C.F.R. 10, 12, 13
551–557	18 C.F.R. 3, 6, 8, 36, 154, 375, 382, 385, 388; 46 C.F.R. 501
551–553	44 C.F.R. 18
551–552a	32 C.F.R. 518
551	17 C.F.R. 10; 28 C.F.R. 540; 29 C.F.R. 580; 44 C.F.R. 1; 46 C.F.R. 502; 49 C.F.R. 1003
552–556	29 C.F.R. 98
552–552a	48 C.F.R. 2424

5 U.S.C.	Requirements or Guidelines
552a	1 C.F.R. 304, 425, 455; 5 C.F.R. 297, 736, 831, 841, 1001, 1205, 1261, 1302, 1410, 1630, 1703, 1830, 2100, 2412, 2504; 7 C.F.R. 1, 661; 18 C.F.R. 103; 10 C.F.R. 9, 1008, 1705; 11 C.F.R. 1; 12 C.F.R. 261a, 310, 405, 411, 503, 603, 790, 792, 909, 1403, 1503, 1616; 13 C.F.R. 102; 14 C.F.R. 1206, 1212; 15 C.F.R. 4b, 2005; 16 C.F.R. 1014, 1016; 17 C.F.R. 145–147, 200; 18 C.F.R. 701, 1301; 19 C.F.R. 201; 20 C.F.R. 401, 422, 903; 21 C.F.R. 21, 291; 22 C.F.R. 171, 215, 308, 505, 603, 707, 1003, 1101, 1202, 1301, 1507; 24 C.F.R. 16, 2003; 25 C.F.R. 515; 27 C.F.R. 179; 28 C.F.R. 16, 30, 50, 540, 700; 29 C.F.R. 70a, 102, 1410, 1611, 1913, 2400, 2607, 2705; 31 C.F.R. 1; 32 C.F.R. 310–323, 505, 701, 806b, 1665, 1901, 2102; 34 C.F.R. 5b; 35 C.F.R. 10, 1202; 36 C.F.R. 903, 1121, 1202; 38 C.F.R. 1, 19; 39 C.F.R. 262, 266, 3003; 40 C.F.R. 13, 16, 1516; 41 C.F.R. 51–9, 105–64; 42 C.F.R. 401; 43 C.F.R. 2; 44 C.F.R. 6; 45 C.F.R. 5b, 30, 504, 613, 705, 1115, 1224, 1705, 1800, 2106; 46 C.F.R. 503; 49 C.F.R. 10, 802; 50 C.F.R. 501

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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APPENDIX 3. INSPECTOR GENERAL ACT OF 1978

SEC. 1. SHORT TITLE.

That this Act be cited as the "Inspector General Act of 1978".

SEC. 2. PURPOSE AND ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL; DEPARTMENTS AND AGENCIES INVOLVED.

In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

SEC. 3. APPOINTMENT OF INSPECTOR GENERAL; SUPERVISION; REMOVAL; POLITICAL ACTIVITIES; APPOINTMENT OF ASSISTANT INSPECTOR GENERAL FOR AUDITING AND ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.

(a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of Title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

SEC. 4. DUTIES AND RESPONSIBILITIES; REPORT OF CRIMINAL VIOLATIONS TO ATTORNEY GENERAL.

(a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and non-governmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b)(1) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall—

(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(B) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 11(2), Offices of Inspector General of designated Federal entities defined under section 8F(a)(2), and any audit office established within a Federal entity defined under section 8F(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or the Office of Inspector General of each establishment defined under section 11(2), or the Office of Inspector General of each designated Federal entity defined under section 8F(a)(2).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

SEC. 5. SEMIANNUAL REPORTS; TRANSMITTAL TO CONGRESS; AVAILABILITY TO PUBLIC; IMMEDIATE REPORT ON SERIOUS OR FLAGRANT PROBLEMS.

(a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period;

(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period and for each audit report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;

(7) a summary of each particularly significant report;

(8) statistical tables showing the total number of audit reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit reports—

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including—

(i) the dollar value of disallowed costs; and

(ii) the dollar value of costs not disallowed; and

(D) for which no management decision has been made by the end of the reporting period;

(9) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management, for audit reports—

(A) for which no management decision had been made by the commencement of the reporting period;

(B) which were issued during the reporting period;

(C) for which a management decision was made during the reporting period, including—

(i) the dollar value of recommendations that were agreed to by management; and

(ii) the dollar value of recommendations that were not agreed to by management; and

(D) for which no management decision has been made by the end of the reporting period;

(10) a summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;

(11) a description and explanation of the reasons for any significant revised management decision made during the reporting period; and

(12) information concerning any significant management decision with which the Inspector General is in disagreement.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing—

(1) any comments such head determines appropriate;

(2) statistical tables showing the total number of audit reports and the dollar value of disallowed costs, for audit reports—

(A) for which final action had not been taken by the commencement of the reporting period;

(B) on which management decisions were made during the reporting period;

(C) for which final action was taken during the reporting period, including—

(i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

(ii) the dollar value of disallowed costs that were written off by management; and

(D) for which no final action has been taken by the end of the reporting period;

(3) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for audit reports—

(A) for which final action had not been taken by the commencement of the reporting period;

(B) on which management decisions were made during the reporting period;

(C) for which final action was taken during the reporting period, including—

(i) the dollar value of recommendations that were actually completed; and

(ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and

(D) for which no final action has been taken by the end of the reporting period; and

(4) a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing—

(A) a list of such audit reports and the date each such report was issued;

(B) the dollar value of disallowed costs for each report;

(C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and

(D) an explanation of the reasons final action has not been taken with respect to each such audit report,

except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector General to the Congress, the head of each establishment shall make copies of such report available to the

public upon request and at a reasonable cost. Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

(e)(1) Nothing in this section shall be construed to authorize the public disclosure of information which is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense of national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

(3) Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986 [26 U.S.C.A. Sec. 6103(f)], nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.

(f) As used in this section—

(1) the term "questioned cost" means a cost that is questioned by the Office because of—

(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

(2) the term "unsupported cost" means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

(3) the term "disallowed cost" means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

(4) the term "recommendation that funds be put to better use" means a recommendation by the Office that funds could be used more efficiently if management of an establishment

took actions to implement and complete the recommendation, including—

(A) reductions in outlays;

(B) deobligation of funds from programs or operations;

(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

(D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;

(E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

(F) any other savings which are specifically identified;

(5) the term "management decision" means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

(6) the term "final action" means—

(A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and

(B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made.

NOTE

Prompt Resolution of Audit Recommendations

Pub. L. 103–355, Title Vi, Sec. 6009, Oct. 13, 1994, 108 Stat. 3367, provides that: "Federal agencies shall resolve or take corrective action on all Office of Inspector General audit report findings within a maximum of six months after their issuance, or, in case of audits performed by non-Federal auditors, six months after receipt of the reports by the Federal Government."

[Note effective Oct. 13, 1994, except as otherwise provided, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.]

SEC. 6. AUTHORITY OF INSPECTOR GENERAL; INFORMATION AND ASSISTANCE FROM FEDERAL AGENCIES; UNREASONABLE REFUSAL; OFFICE SPACE AND EQUIPMENT.

(a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applica-

ble establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: Provided, That procedures other than subpoenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;

(6) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(7) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of Title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(8) to obtain services as authorized by section 3109 of Title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of Title 5, United States Code; and

(9) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall

report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d) For purposes of the provisions of title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the "appointing authority" for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the Office of an Inspector General, be deemed to be a reference to such Inspector General.

SEC. 7. COMPLAINTS BY EMPLOYEES; DISCLOSURE OF IDENTITY; REPRISALS.

(a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

SEC. 8A. SPECIAL PROVISIONS RELATING TO THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Agency for International Development—

(1) shall supervise, direct, and control all security activities relating to the programs and operations of that Agency, subject to the supervision of the Administrator of that Agency; and

(2) to the extent requested by the Director of the United States International Development Cooperation Agency (after consultation with the Administrator of the Agency for International Development), shall supervise, direct, and control all audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency.

(b) In addition to the Assistant Inspector Generals provided for in section 3(d) of this Act, the Inspector General of the Agency for

International Development shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Security who shall have the responsibility for supervising the performance of security activities relating to programs and operations of the Agency for International Development.

(c) The semiannual reports required to be submitted to the Administrator of the Agency for International Development pursuant to section 5(b) of this Act shall also be submitted to the Director of the United States International Development Cooperation Agency.

(d) In addition to the officers and employees provided for in section 6(a)(6) of this Act, members of the Foreign Service may, at the request of the Inspector General of the Agency for International Development, be assigned as employees of the Inspector General. Members of the Foreign Service so assigned shall be responsible solely to the Inspector General, and the Inspector General (or his or her designee) shall prepare the performance evaluation reports for such members.

(e) In establishing and staffing field offices pursuant to section 6(c) of this Act, the Administrator of the Agency for International Development shall not be bound by overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy.

(f) The reference in section 7(a) of this Act to an employee of the establishment shall, with respect to the Inspector General of the Agency for International Development, be construed to include an employee of or under the United States International Development Cooperation Agency.

(g) The Inspector General of the Agency for International Development shall be in addition to the officers provided for in section 624(a) of the Foreign Assistance Act of 1961 [22 U.S.C.A. Sec. 2384(a)].

(h) As used in this Act, the term "Agency for International Development" includes any successor agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 U.S.C.A. Sec. 2151 et seq.].

SEC. 8B. SPECIAL PROVISIONS CONCERNING THE NUCLEAR REGULATORY COMMISSION.

(a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission.

(b) Notwithstanding sections 6(a)(7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission.

SEC. 8C. SPECIAL PROVISIONS CONCERNING THE FEDERAL DEPOSIT INSURANCE CORPORATION.

(a) DELEGATION.—The Chairperson of the Federal Deposit Insurance Corporation may delegate the authority specified in the second sentence of section 3(a) to the Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, but may not delegate such authority to any other officer or employee of the Corporation.

(b) PERSONNEL.—Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of the Federal Deposit Insurance Corporation may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Federal Deposit Insurance Corporation.

SEC. 8D. SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE TREASURY.

(a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

(A) ongoing criminal investigations or proceedings;

(B) undercover operations;

(C) the identity of confidential sources, including protected witnesses;

(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

(E) intelligence or counterintelligence matters; or

(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94–524).

(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector Gen-

eral shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service, and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.

(c) Notwithstanding subsection (b), the Inspector General may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureaus and services referred to in subsection (b)) as the Inspector General considers appropriate.

(d) If the Inspector General initiates an audit or investigation under subsection (c) concerning a bureau or service referred to in subsection (b), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (b) with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General and any other audit or investigation of such matter shall cease.

(e)(1) The Inspector General shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986, only in accordance with the provisions of section 6103 of such Code [26 U.S.C.A. Sec. 6103] and this Act.

(2) Access by the Inspector General to returns and return information under section 6103(h)(1) of such Code shall be subject to the following additional requirements:

(A) In order to maintain internal controls over access to returns and return information, the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, shall provide to the Assistant Commissioner (Inspection) of the Internal Revenue Service written notice of the Inspector General's intent to access returns and return information. If the Inspector General determines that the Inspection Service of the Internal Revenue Service should not be made aware of a notice of access to returns and return information, such notice shall be provided to the Senior Deputy Commissioner of Internal Revenue.

(B) Such notice shall clearly indicate the specific returns or return information being accessed, contain a certification by the Inspector General, or in the absence of the Inspector Gen-

eral, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, that the returns or return information being accessed are needed for a purpose described under section 6103(h)(1) of the Internal Revenue Code of 1986, and identify those employees of the Office of Inspector General of the Department of the Treasury who may receive such returns or return information.

(C) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Inspector General for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986.

(D) The Inspector General shall be subject to the same safeguards and conditions for receiving returns and return information as are described under section 6103(p)(4) of the Internal Revenue Code of 1986.

(f) An audit or investigation conducted by the Inspector General shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986 [26 U.S.C.A. Sec. 6406].

(g) Notwithstanding section 4(d), in matters involving chapter 75 of the Internal Revenue Code of 1986 [26 U.S.C.A. Secs. 7201 to 7487], the Inspector General shall report expeditiously to the Attorney General only offenses under section 7214 of such Code [26 U.S.C.A. Sec. 7214], unless the Inspector General obtains the consent of the Commissioner of Internal Revenue to exercise additional reporting authority with respect to such chapter.

(h) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives.

SEC. 8E. SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE.

(a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

(A) ongoing civil or criminal investigations or proceedings;

(B) undercover operations;

(C) the identity of confidential sources, including protected witnesses;

(D) intelligence or counterintelligence matters; or

(E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice—

(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department and the audit, internal investigative, and inspection units outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation; and

(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.

(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.

SEC. 8F. SPECIAL PROVISIONS CONCERNING THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) Notwithstanding the provisions of paragraphs (7) and (8) of section 6(a), it is within the exclusive jurisdiction of the Inspector General of the Corporation for National and Community Service to—

(1) appoint and determine the compensation of such officers and employees in accordance with section 195(b) of the National and Community Service Trust Act of 1993 [42 U.S.C.A. Sec. 12651f(b)]; and

(2) procure the temporary and intermittent services of and compensate such experts and consultants, in accordance with section 3109(b) of title 5, United States Code [5 U.S.C.A. Sec. 3109(b)],

as may be necessary to carry out the functions, powers, and duties of the Inspector General.

(b) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits any report to the Congress under subsection (a) or (b) of section 5, the Chief Executive Officer shall transmit such report to the Board of Directors of such Corporation.

(c) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits a report described under section 5(b) to the Board of Directors as provided under subsection (b) of this section, the Chief Executive Officer shall also transmit any audit report which is described in the statement required under section 5(b)(4) to the Board of Directors. All such audit reports shall be placed on the agenda for review at the next scheduled meeting of the Board of Directors following such transmittal. The Chief Executive Officer of the Corporation shall be present at such meeting to provide any information relating to such audit reports.

(d) No later than the date on which the Inspector General of the Corporation for National and Community Service reports a problem, abuse, or deficiency under section 5(d) to the Chief Executive Officer of the Corporation, the Chief Executive Officer shall report such problem, abuse, or deficiency to the Board of Directors.

SEC. 8G. REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

(a) Notwithstanding section 11 of this Act, as used in this section—

(1) the term "Federal entity" means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include—

(A) an establishment (as defined under section 11(2) of this Act) or part of an establishment;

(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;

(C) the Executive Office of the President;

(D) the Central Intelligence Agency;

(E) the General Accounting Office; or

(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

(2) the term "designated Federal entity" means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the Tennessee Valley Authority, the United States International Trade Commission, and the United States Postal Service;

(3) the term "head of the Federal entity" means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

(4) the term "head of the designated Federal entity" means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that with respect to the National Science Foundation, such term means the National Science Board;

(5) the term "Office of Inspector General" means an Office of Inspector General of a designated Federal entity; and

(6) the term "Inspector General" means an Inspector General of a designated Federal entity.

(b) No later than 180 days after October 18, 1988, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

(d) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but shall not report to, or be subject to supervision by, any other officer

or employee of such designated Federal entity. The head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(e) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress.

(f)(1) The Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the United States Postal Service, and for purposes of this section, shall report to, and be under the general supervision of, the Postmaster General of the United States Postal Service. The Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, with the concurrence of the Governors of the United States Postal Service, shall have power to remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location within the United States Postal Service. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Postmaster General shall promptly notify both Houses of the Congress in writing of the reasons for such removal or transfer.

(2) For purposes of paragraph (1), the term "Governors" has the same meaning as such term is defined under section 102(3) of title 39, United States Code.

(g)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

(A) "designated Federal entity" for "establishment"; and

(B) "head of the designated Federal entity" for "head of the establishment".

(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8C (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the

Department of the Treasury and the Secretary of the Treasury, respectively.

(h)(1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in the Federal Register a list of the Federal entities and designated Federal entities and the head of each such entity (as defined under subsection (a) of this section).

(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which—

(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.

SEC. 8H. RULE OF CONSTRUCTION OF SPECIAL PROVISIONS.

The special provisions under section 8, 8A, 8B, 8C, 8D, or 8E of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8F(a).

SEC. 9. TRANSFER OF FUNCTIONS.

(a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Defense, the offices of that department referred to as the "Defense Audit Service" and the "Office of Inspector General, Defense Logistics Agency", and that portion of the office of that department referred to as the "Defense Investigative Service" which has

responsibility for the investigation of alleged criminal violations;

(D) of the Department of Education, all functions of the Inspector General of Health, Education, and Welfare or of the Office of Inspector General of Health, Education, and Welfare relating to functions transferred by section 301 of the Department of Education Organization Act [20 U.S.C.A. Sec. 3441];

(E) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act) [42 U.S.C.A. former Sec. 7138];

(F) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94–505) [42 U.S.C.A. former Secs. 3521–3527];

(G) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(H) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(I) of the Department of Justice, the offices of that Department referred to as (i) the "Audit Staff, Justice Management Division", (ii) the "Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service", the "Office of Professional Responsibility, Immigration and Naturalization Service", and the "Office of Program Inspections, Immigration and Naturalization Service", (iii) the "Office of Internal Inspection, United States Marshals Service", (iv) the "Financial Audit Section, Office of Financial Management, Bureau of Prisons" and the "Office of Inspections, Bureau of Prisons", and (v) from the Drug Enforcement Administration, that portion of the "Office of Inspections" which is engaged in internal audit activities, and that portion of the "Office of Planning and Evaluation" which is engaged in program review activities;

(J) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

(K) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

(L) of the Department of the Treasury, the office of that department referred to as the "Office of Inspector General", and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the "Office of Internal Affairs, Bureau of Alco-

hol, Tobacco, and Firearms", the "Office of Internal Affairs, United States Customs Service", and the "Office of Inspections, United States Secret Service" which is engaged in internal audit activities;

(M) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(N) of the Federal Emergency Management Agency, the office of that agency referred to as the "Office of Inspector General";

(O) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(P) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(Q) of the Nuclear Regulatory Commission, the office of that commission referred to as the "Office of Inspector and Auditor";

(R) of the Office of Personnel Management, the offices of that agency referred to as the "Office of Inspector General", the "Insurance Audits Division, Retirement and Insurance Group", and the "Analysis and Evaluation Division, Administration Group";

(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);

(T) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations";

(U) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(V) of the Corporation for National and Community Service, the Office of Inspector General of ACTION;

(W) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services which are transferred to the Social Security Administration by the Social Security Independence and Program Improvements Act of 1994 (other than functions performed pursuant to section 105(a)(2) of such Act), except that such transfers shall be made in accordance with the provisions of such Act and shall not be subject to subsections (b) through (d) of this section; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available

or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act [Oct. 1, 1978], held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

SEC. 10. CONFORMING AND TECHNICAL AMENDMENTS.

[Section amended sections 5315 and 5316 of Title 5, Government Organization and Employees, and section 3522 of Title 42, The Public Health and Welfare, which amendments have been executed to text.]

SEC. 11. DEFINITIONS.

As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency, the Office of Personnel Management or the United States Information Agency; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; and the chief executive officer of the Resolution Trust Corporation; and the Chairperson of the Federal Deposit Insurance Corporation; or the Commissioner of Social Security, Social Security Administration; as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commis-

sion, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the United States Information Agency, the Corporation for National and Community Service, or the Veterans' Administration, or the Social Security Administration; as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of Title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

SEC. 12. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act [see section 10 of this Act] shall take effect October 1, 1978.

* * * * * * *

The following list shows the section of 5 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

5 U.S.C.	Requirements or Guidelines
Appendix 3	12 C.F.R. 603, 1403; 20 C.F.R. 75, 76; 39 C.F.R. 221, 222, 224, 233, 265 GAO: Government Auditing Standards: 1994 Revision, see appendix III

SELECTED PROVISIONS OF TITLE 15, UNITED STATES CODE— COMMERCE AND TRADE

Table of Sections of Selected Provisions of Title 15 [9]

TITLE 15, UNITED STATES CODE

COMMERCE AND TRADE

CHAPTER 14A—AID TO SMALL BUSINESS

Sec. 644. Awards or contracts.

CHAPTER 21—NATIONAL POLICY ON EMPLOYMENT AND PRODUCTIVITY

Sec. 1022. Economic Report of President; coverage; supplementary reports; reference to congressional joint committee; percentage rate of unemployment; definitions.

[9] This table of sections is not part of Title 15 but is included for the convenience of the reader.

TITLE 15—COMMERCE AND TRADE

* * * * * * *

CHAPTER 14A—AID TO SMALL BUSINESS

SEC. 644. AWARDS OR CONTRACTS

(a) DETERMINATION.—To effectuate the purposes of this chapter, small-business concerns within the meaning of this chapter shall receive any award or contract or any part thereof, and be awarded any contract for the sale of Government property, as to which it is determined by the Administration and the contracting procurement or disposal agency (1) to be in the interest of maintaining or mobilizing the Nation's full productive capacity, (2) to be in the interest of war or national defense programs, (3) to be in the interest of assuring that a fair proportion of the total purchases and contracts for property and services for the Government in each industry category are placed with small-business concerns, or (4) to be in the interest of assuring that a fair proportion of the total sales of Government property be made to small-business concerns; but nothing contained in this chapter shall be construed to change any preferences or priorities established by law with respect to the sale of electrical power or other property by the Government or any agency thereof. These determinations may be made for individual awards or contracts or for classes of awards or contracts. If a proposed procurement includes in its statement of work goods or services currently being performed by a small business, and if the proposed procurement is in a quantity or estimated dollar value the magnitude of which renders small business prime contract participation unlikely, or if a proposed procurement for construction seeks to package or consolidate discrete construction projects, the Procurement Activity shall provide a copy of the proposed procurement to the Procurement Activity's Small Business Procurement Center Representative at least 30 days prior to the solicitation's issuance along with a statement explaining (1) why the proposed acquisition cannot be divided into reasonably small lots (not less than economic production runs) to permit offers on quantities less than the total requirement, (2) why delivery schedules cannot be established on a realistic basis that will encourage small business participation to the extent consistent with the actual requirements of the Government, (3) why the proposed acquisition cannot be offered so as to make small business participation likely, or (4) why construction cannot be procured as separate discrete projects. The thirty-day notification process shall occur concurrently with other processing steps required prior to issuance of the solicitation. Within 15 days after receipt of the proposed procurement and accompanying statement, if the Procurement Center Representative believes that the procurement as proposed will render small business prime contract

participation unlikely, the Representative shall recommend to the Procurement Activity alternative procurement methods which would increase small business prime contracting opportunities. Whenever the Administration and the contracting procurement agency fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the Administrator. For purposes of clause (3) of the first sentence of this subsection, an industry category is a discrete group of similar goods and services. Such groups shall be determined by the Administration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classification codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located. A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.

(b) PLACEMENT OF CONTRACTS BY CONTRACTING PROCUREMENT AGENCY.—With respect to any work to be performed the amount of which would exceed the maximum amount of any contract for which a surety may be guaranteed against loss under section 694b of this title, the contracting procurement agency shall, to the extent practicable, place contracts so as to allow more than one small business concern to perform such work.

(c) PROGRAMS FOR BLIND AND HANDICAPPED INDIVIDUALS.—(1) As used in this subsection:

(A) The term "Committee" means the Committee for Purchase From People Who Are Blind or Severely Disabled established under section 46 of Title 41.

(B) The term "public or private organization for the handicapped" has the same meaning given such term in section 3(e).

(C) The term "handicapped individual" has the same meaning given such term in section 632(f) of this title.

(2)(A) During fiscal year 1995, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $40,000,000.

(B) None of the amounts authorized for participation by subparagraph (A) may be placed on the procurement list maintained by the Committee pursuant to section 47 of Title 41.

(3) The Administrator shall monitor and evaluate such participation.

(4)(A) Not later than ten days after the announcement of a proposed award of a contract by an agency or department to a public or private organization for the handicapped, a for-profit small business concern that has experienced or is likely to experience severe economic injury as the result of the proposed award may file an appeal of the proposed award with the Administrator.

(B) If such a concern files an appeal of a proposed award under subparagraph (A) and the Administrator, after consultation with the Executive Director of the Committee, finds that the concern has experienced or is likely to experience severe economic injury as the result of the proposed award, not later than thirty days after the filing of the appeal, the Administration shall require each agency and department having procurement powers to take such action as may be appropriate to alleviate economic injury sustained or likely to be sustained by the concern.

(5) Each agency and department having procurement powers shall report to the Office of Federal Procurement Policy each time a contract subject to paragraph (2)(A) is entered into, and shall include in its report the amount of the next higher bid submitted by a for-profit small business concern. The Office of Federal Procurement Policy shall collect data reported under the preceding sentence through the Federal procurement data system and shall report to the Administration which shall notify all such agencies and departments when the maximum amount of awards authorized under paragraph (2)(A) has been made during any fiscal year.

(6) For the purpose of this subsection, a contract may be awarded only if at least 75 per centum of the direct labor performed on each item being produced under the contract in the sheltered workshop or performed in providing each type of service under the contract by the sheltered workshop is performed by handicapped individuals.

(7) Agencies awarding one or more contracts to such an organization pursuant to the provisions of this subsection may use multiyear contracts, if appropriate.

(d) PRIORITY.—For purposes of this section priority shall be given to the awarding of contracts and the placement of subcontracts to small business concerns which shall perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas. Notwithstanding any other provision of law, total labor surplus area set-asides pursuant to Defense Manpower Policy Number 4 (32A C.F.R. Chapter 1) or any successor policy shall be authorized if the Secretary or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. As soon as practicable and to the extent possible, in determining labor surplus areas, consideration shall be given to those persons who would be available for employment were suitable employment available. Until such definition reflects such number, the present criteria of such policy shall govern.

(e), (f) Repealed.—Pub. L. 103–355, Title VII, Sec. 7101(a), Oct. 13, 1994, 108 Stat. 3367

(g) GOALS FOR PARTICIPATION OF SMALL BUSINESS CONCERNS IN PROCUREMENT CONTRACTS.—

(1) The President shall annually establish Government-wide goals for procurement contracts awarded to small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women. The Government-wide goal for participation by small business concerns shall be established at not less than 20 percent of the total value of all prime contract awards for each fiscal year. The Government-wide goal for participation by small business concerns owned and controlled by socially and economically disadvantaged individuals shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year. The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year. Notwithstanding the Government-wide goal, each agency shall have an annual goal that presents, for that agency, the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women to participate in the performance of contracts let by such agency. The Administration and the Administrator of the Office of Federal Procurement Policy shall, when exercising their authority pursuant to paragraph (2), insure that the cumulative annual prime contract goals for all agencies meet or exceed the annual Government-wide prime contract goal established by the President pursuant to this paragraph.

(2) The head of each Federal agency shall, after consultation with the Administration, establish goals for the participation by small business concerns, owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women in procurement contracts of such agency. Goals established under this subsection shall be jointly established by the Administration and the head of each Federal agency and shall realistically reflect the potential of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination. For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by

small business concerns owned and controlled by socially and economically disadvantaged individuals and participation by small business concerns owned and controlled by women. The head of each Federal agency, in attempting to attain such participation, shall consider—

(A) contracts awarded as the result of unrestricted competition; and

(B) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 637(a) of this title.

(h) REPORTS TO ADMINISTRATION; SUBMITTAL OF INFORMATION TO CONGRESS.—

(1) At the conclusion of each fiscal year, the head of each Federal agency shall report to the Administration on the extent of participation by small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women in procurement contracts of such agency. Such reports shall contain appropriate justifications for failure to meet the goals established under subsection (g) of this section.

(2) The Administration shall annually compile and analyze the reports submitted by the individual agencies pursuant to paragraph (1) and shall submit them to the President. The Administration's submission to the President shall include the following:

(A) The Government-wide goals for participation by small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women and the performance in attaining such goals.

(B) The goals in effect for each agency and the agency's performance in attaining such goals.

(C) An analysis of any failure to achieve the Government-wide goals or any individual agency goals and the actions planned by such agency (and approved by the Administration) to achieve the goals in the succeeding fiscal year.

(D) The number and the dollar value of contracts awarded to small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women through—

(i) noncompetitive negotiation,

(ii) competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals,

(iii) competition restricted to small business concerns, and

(iv) unrestricted competitions, for each agency and on a Government-wide basis.

(E) The number and dollar value of subcontracts awarded to small business concerns, small business concerns owned and controlled by socially and economically dis-

advantaged individuals, and small business concerns owned and controlled by women.

(F) The number and dollar value of prime contracts and subcontracts awarded to small business concerns owned and controlled by women.

(3) The President shall include the information required by paragraph (2) in each annual report to the Congress on the state of small business prepared pursuant to section 631b(a) of this title.

(i) SMALL BUSINESS SET-ASIDES.—Nothing in this chapter or any other provision of law precludes exclusive small business set-asides for procurements of architectural and engineering services, research, development, test and evaluation, and each Federal agency is authorized to develop such set-asides to further the interests of small business in those areas.

(j) SMALL BUSINESS RESERVATION.—

(1) Each contract for the purchase of goods and services that has an anticipated value greater than $2,500 but not greater than $100,000 shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not greater than $100,000 under the authority of subsection (a) of section 637 of this title, section 2323 of Title 10, section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656; 15 U.S.C. 644 note), or section 7102 of the Federal Acquisition Streamlining Act of 1994.

(k) OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION; DIRECTOR.—There is hereby established in each Federal agency having procurement powers an office to be known as the "Office of Small and Disadvantaged Business Utilization". The management of each such office shall be vested in an officer or employee of such agency who shall—

(1) be known as the "Director of Small and Disadvantaged Business Utilization" for such agency,

(2) be appointed by the head of such agency,

(3) be responsible only to, and report directly to, the head of such agency or to the deputy of such head, except that the director for the Office of the Secretary of Defense shall be responsible only to, and report directly to, such Secretary or the Secretary's designee,

(4) be responsible for the implementation and execution of the functions and duties under this section and section 637 of this title which relate to such agency,

(5) assist small business concerns to obtain payments, required late payment interest penalties, or information regarding payments due to such concerns from an executive agency

or a contractor, in conformity with chapter 39 of Title 31 or any other protection for contractors or subcontractors (including suppliers) that is included in the Federal Acquisition Regulation or any individual agency supplement to such Government-wide regulation,

(6) have supervisory authority over personnel of such agency to the extent that the functions and duties of such personnel relate to functions and duties under this section and section 637 of this title,

(7) assign a small business technical adviser to each office to which the Administration has assigned a procurement center representative—

(A) who shall be a full-time employee of the procuring activity and shall be well qualified, technically trained and familiar with the supplies or services purchased at the activity, and

(B) whose principal duty shall be to assist the Administration procurement center representative in his duties and functions relating to this section and section 637 of this title, and

(8) cooperate, and consult on a regular basis, with the Administration with respect to carrying out the functions and duties described in paragraph (4) of this subsection, and

(9) make recommendations to contracting officers as to whether a particular contract requirement should be awarded pursuant to subsection (a) of this section, or section 637(a) of this title or section 2323 of Title 10. Such recommendations shall be made with due regard to the requirements of subsection (m) of this section, and the failure of the contracting officer to accept any such recommendations shall be documented and included within the appropriate contract file. This subsection shall not apply to the Administration.

(l) BREAKOUT PROCUREMENT CENTER REPRESENTATIVES.—(1) The Administration shall assign to each major procurement center a breakout procurement center representative with such assistance as may be appropriate. The breakout procurement center representative shall carry out the activities described in paragraph (2), and shall be an advocate for the breakout of items for procurement through full and open competition, whenever appropriate, while maintaining the integrity of the system in which such items are used, and an advocate for the use of full and open competition, whenever appropriate, for the procurement of supplies and services by such center. Any breakout procurement center representative assigned under this subsection shall be in addition to the representative referred to in subsection (k)(6) of this section.

(2) In addition to carrying out the responsibilities assigned by the Administration, a breakout procurement center representative is authorized to—

(A) attend any provisioning conference or similar evaluation session during which determinations are made as to whether requirements are to be procured through other than full and open competition and make recommendations with respect to such requirements to the members of such conference or session;

(B) review, at any time, restrictions on competition previously imposed on items through acquisition method coding or similar procedures, and recommend to personnel of the appropriate activity the prompt reevaluation of such limitations;

(C) review restrictions on competition arising out of restrictions on the rights of the United States in technical data, and, when appropriate, recommend that personnel of the appropriate activity initiate a review of the validity of such an asserted restriction;

(D) obtain from any governmental source, and make available to personnel of the appropriate activity, technical data necessary for the preparation of a competitive solicitation package for any item of supply or service previously procured noncompetitively due to the unavailability of such technical data;

(E) have access to procurement records and other data of the procurement center commensurate with the level of such representative's approved security clearance classification;

(F) receive unsolicited engineering proposals and, when appropriate (i) conduct a value analysis of such proposal to determine whether such proposal, if adopted, will result in lower costs to the United States without substantially impeding legitimate acquisition objectives and forward to personnel of the appropriate activity recommendations with respect to such proposal, or (ii) forward such proposals without analysis to personnel of the activity responsible for reviewing such proposals and who shall furnish the breakout procurement center representative with information regarding the disposition of any such proposal; and

(G) review the systems that account for the acquisition and management of technical data within the procurement center to assure that such systems provide the maximum availability and access to data needed for the preparation of offers to sell to the United States those supplies to which such data pertain which potential offerors are entitled to receive.

(3) A breakout procurement center representative is authorized to appeal the failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be filed and processed in the same manner and subject to the same conditions and limitations as an appeal filed by the Administrator pursuant to subsection (a).

(4) The Administration shall assign and co-locate at least two small business technical advisers to each major procurement center in addition to such other advisers as may be authorized from time to time. The sole duties of such advisers shall be to assist the breakout procurement center representative for the center to which such advisers are assigned in carrying out the functions described in paragraph (2) and the representatives referred to in subsection (k)(6) of this section.

(5)(A) The breakout procurement center representatives and technical advisers assigned pursuant to this subsection shall be—

(i) full-time employees of the Administration; and

(ii) fully qualified, technically trained, and familiar with the supplies and services procured by the major procurement center to which they are assigned.

(B) In addition to the requirements of subparagraph (A), each breakout procurement center representative, and at least one technical adviser assigned to such representative, shall be an accredited engineer.

(C) The Administration shall establish personnel positions for breakout procurement representatives and advisers assigned pursuant to this subsection, which are classified at a grade level of the General Schedule sufficient to attract and retain highly qualified personnel.

(6) For purposes of this subsection, the term "major procurement center" means a procurement center that, in the opinion of the Administrator, purchases substantial dollar amounts of other than commercial items and which has the potential to incur significant savings as the result of the placement of a breakout procurement center representative.

(7)(A) At such times as the Administrator deems appropriate, the breakout procurement center representative shall conduct familiarization sessions for contracting officers and other appropriate personnel of the procurement center to which such representative is assigned. Such sessions shall acquaint the participants with the provisions of this subsection and shall instruct them in methods designed to further the purposes of such subsection.

(B) The breakout procurement center representative shall prepare and personally deliver an annual briefing and report to the head of the procurement center to which such representative is assigned. Such briefing and report shall detail the past and planned activities of the representative and shall contain such recommendations for improvement in the operation of the center as may be appropriate. The head of such center shall personally receive such briefing and report and shall, within sixty calendar days after receipt, respond, in writing, to each recommendation made by such representative.

(m) RELATIONSHIP TO OTHER PROCUREMENT PROGRAMS.—

(1) Each agency subject to the requirements of section 2323 of Title 10 shall, when implementing such requirements—

(A) establish policies and procedures that insure that there will be no reduction in the number of dollar value of contracts awarded pursuant to this section and section 637(a) of this title in order to achieve any goal or other program objective; and

(B) assure that such requirements will not alter or change the procurement process used to implement this section or section 637(a) of this title.

(2) All procurement center representatives (including those referred to in subsection (k)(6) of this section), in addition to such other duties as may be assigned by the Administrator, shall—

(A) monitor the performance of the procurement activities to which they are assigned to ascertain the degree of compliance with the requirements of paragraph (1);

(B) report to their immediate supervisors all instances of noncompliance with such requirements; and

(C) increase, insofar as possible, the number and dollar value of procurements that may be used for the programs

established under this section, section 637(a) of this title, and section 2323 of Title 10.

(n) DETERMINATION OF LABOR SURPLUS AREAS.—For purposes of this section, the determination of labor surplus areas shall be made on the basis of the criteria in effect at the time of the determination, except that any minimum population criteria shall not exceed twenty-five thousand. Such determination, as modified by the preceding sentence, shall be made by the Secretary of Labor.

(o) COSTS OF CONTRACT PERFORMANCE AND MANUFACTURING.—

(1) A concern may not be awarded a contract under subsection (a) as a small business concern unless the concern agrees that—

(A) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such paragraph. The percentage applicable to any such requirement shall be determined in accordance with paragraph (2).

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The following list shows the section of 15 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

5 U.S.C.	Requirements or Guidelines
644	13 C.F.R. 121; 20 C.F.R. 654; 48 C.F.R. 2819

TITLE 15—COMMERCE AND TRADE

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CHAPTER 21—NATIONAL POLICY ON EMPLOYMENT AND PRODUCTIVITY

SEC. 1022. ECONOMIC REPORT OF PRESIDENT; COVERAGE; SUPPLEMENTARY REPORTS; REFERENCE TO CONGRESSIONAL JOINT COMMITTEE; PERCENTAGE RATE OF UNEMPLOYMENT; DEFINITIONS.

(a) The President shall annually transmit to the Congress not later than 10 days after the submission of the budget under section 1105(a) of Title 31, United States Code, with copies transmitted to the Governor of each State and to other appropriate State and local officials, an economic report (hereinafter in this chapter referred to as the "Economic Report") together with the annual report of the Council of Economic Advisers submitted in accord with section 1023(c) of this title, setting forth—

(1) the current and foreseeable trends in the levels of employment, unemployment, production, capital formation, real income, Federal budget outlays and receipts, productivity, international trade and payments, and prices, and a review and analysis of recent domestic and international developments affecting economic trends in the Nation;

(2)(A) annual numerical goals for employment and unemployment, production, real income, productivity, Federal outlays as a proportion of gross national product, and prices for the calendar year in which the Economic Report is transmitted and for the following calendar year, designated as short-term goals, which shall be consistent with achieving as rapidly as feasible the goals of full employment and production, increased real income, balanced growth, fiscal policies that would establish the share of an expanding gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities, a balanced Federal budget, adequate productivity growth, price stability, achievement of an improved trade balance, and proper attention to national priorities; and

(B) annual numerical goals as specified in subparagraph (A) for the three successive calendar years, designated as medium term goals;

(3) employment objectives for certain significant subgroups of the labor force, including youth, women, minorities, handicapped persons, veterans, and middle-aged and older persons; and

(4) a program for carrying out the policy declared in section 1021 of this title, together with such recommendations for legislation as the President may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the Economic Report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 1021 of this title.

(c) The Economic Report, and all supplementary reports transmitted under subsection (b) of this section, shall, when transmitted to Congress, be referred to the joint committee created by section 1024 of this title.

(d) For the purposes of the Full Employment and Balanced Growth Act of 1978 [15 U.S.C.A. Sec. 3101 et seq.], the percentage rate of unemployment as [FN1] a percentage of the civilian labor force as set forth by the Bureau of Labor Statistics in the Department of Labor as computed under the procedures in effect as of October 27, 1978.

(e) For the purpose of the Full Employment and Balanced Growth Act of 1978 [15 U.S.C.A. Sec. 3101 et seq.], the terms "inflation", "prices", and "reasonable price stability" refer to the rate of change or level of the consumer price index as set forth by the Bureau of Labor Statistics, United States Department of Labor.

SELECTED PROVISIONS OF TITLE 39, UNITED STATES CODE— POSTAL SERVICE

Table of Sections of Selected Provisions of Title 39 [10]

TITLE 39, UNITED STATES CODE

POSTAL SERVICE

PART III—MODERNIZATION AND FISCAL ADMINISTRATION

CHAPTER 28—STRATEGIC PLANNING AND PERFORMANCE MANAGEMENT

Sec. 2801. Definitions.
Sec. 2802. Strategic plans.
Sec. 2803. Performance plans.
Sec. 2804. Program performance reports.
Sec. 2805. Inherently Governmental functions.

[10] This table of sections is not part of Title 39 but is included for the convenience of the reader.

TITLE 39—POSTAL SERVICE

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PART III—MODERNIZATION AND FISCAL ADMINISTRATION

CHAPTER 28—STRATEGIC PLANNING AND PERFORMANCE MANAGEMENT

SEC. 2801. DEFINITIONS.

For purposes of this chapter the term—

(1) "outcome measure" refers to an assessment of the results of a program activity compared to its intended purpose;

(2) "output measure" refers to the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

(3) "performance goal" means a target level of performance expressed as a tangible, measurable objective, against which actual achievement shall be compared, including a goal expressed as a quantitative standard, value, or rate;

(4) "performance indicator" refers to a particular value or characteristic used to measure output or outcome;

(5) "program activity" means a specific activity related to the mission of the Postal Service; and

(6) "program evaluation" means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Postal Service programs achieve intended objectives.

SEC. 2802. STRATEGIC PLANS.

(a) No later than September 30, 1997, the Postal Service shall submit to the President and the Congress a strategic plan for its program activities. Such plan shall contain—

(1) a comprehensive mission statement covering the major functions and operations of the Postal Service;

(2) general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the Postal Service;

(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

(4) a description of how the performance goals included in the plan required under section 2803 shall be related to the general goals and objectives in the strategic plan;

(5) an identification of those key factors external to the Postal Service and beyond its control that could significantly affect the achievement of the general goals and objectives; and

(6) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

(b) The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

(c) The performance plan required under section 2803 shall be consistent with the Postal Service's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

(d) When developing a strategic plan, the Postal Service shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan, and shall advise the Congress of the contents of the plan.

SEC. 2803. PERFORMANCE PLANS.

(a) The Postal Service shall prepare an annual performance plan covering each program activity set forth in the Postal Service budget, which shall be included in the comprehensive statement presented under section 2401(g) of this title. Such plan shall—

(1) establish performance goals to define the level of performance to be achieved by a program activity;

(2) express such goals in an objective, quantifiable, and measurable form unless an alternative form is used under subsection (b);

(3) briefly describe the operational processes, skills and technology, and the human, capital, information, or other resources required to meet the performance goals;

(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

(5) provide a basis for comparing actual program results with the established performance goals; and

(6) describe the means to be used to verify and validate measured values.

(b) If the Postal Service determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Postal Service may use an alternative form. Such alternative form shall—

(1) include separate descriptive statements of—

(A) a minimally effective program, and

(B) a successful program,

with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of either description; or

(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

(c) In preparing a comprehensive and informative plan under this section, the Postal Service may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation.

(d) The Postal Service may prepare a non-public annex to its plan covering program activities or parts of program activities relating to—

(1) the avoidance of interference with criminal prosecution; or

(2) matters otherwise exempt from public disclosure under section 410(c) of this title.

SEC. 2804. PROGRAM PERFORMANCE REPORTS.

(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section 2401(g) of this title.

(b)(1) The program performance report shall set forth the performance indicators established in the Postal Service performance plan, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

(2) If performance goals are specified by descriptive statements of a minimally effective program activity and a successful program activity, the results of such program shall be described in relationship to those categories, including whether the performance failed to meet the criteria of either category.

(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

(d) Each report shall—

(1) review the success of achieving the performance goals of the fiscal year;

(2) evaluate the performance plan for the current fiscal year relative to the performance achieved towards the performance goals in the fiscal year covered by the report;

(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 2803(b)(2))—

(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended; and

(4) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

SEC. 2805. INHERENTLY GOVERNMENTAL FUNCTIONS.

The functions and activities of this chapter shall be considered to be inherently Governmental functions. The drafting of strategic plans, performance plans, and program performance reports under this section shall be performed only by employees of the Postal Service.

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The following list shows the section of 39 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

39 U.S.C.	Requirements or Guidelines
2801	OMB: Circular A–11, see appendix IV
2802	OMB: Circular A–11, see appendix IV
2803	OMB: Circular A–11, See appendix IV

SELECTED PROVISIONS OF TITLE 40, UNITED STATES CODE— PUBLIC BUILDINGS, PROPERTY, AND WORKS

Table of Sections of Selected Provisions of Title 40 [11]

TITLE 40, UNITED STATES CODE

PUBLIC BUILDINGS, PROPERTY, AND WORKS

CHAPTER 10—MANAGEMENT AND DISPOSAL OF GOVERNMENT PROPERTY

SUBCHAPTER I—GENERAL PROVISIONS

Sec. 472. Definitions.

[11] This table of sections is not part of Title 40 but is included for the convenience of the reader.

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

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CHAPTER 10—MANAGEMENT AND DISPOSAL OF GOVERNMENT PROPERTY

SUBCHAPTER I—GENERAL PROVISIONS

SEC. 472. DEFINITIONS.

As used in titles I through VI of this Act—

(a) The term "executive agency" means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

(b) The term "Federal agency" means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction).

(c) The term "Administrator" means the Administrator of General Services provided for in chapter 16 of this title.

(d) The term "property" means any interest in property except (1) the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and lands withdrawn or reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public-land laws because such lands are substantially changed in character by improvements or otherwise; (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines; and (3) records of the Federal Government.

(e) The term "excess property" means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.

(f) The term "foreign excess property" means any excess property located outside the States of the Union, the District of Columbia, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(g) The term "surplus property" means any excess property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator.

(h) The term "care and handling" includes completing, repairing, converting, rehabilitating, operating, preserving, protecting, insuring, packing, storing, handling, conserving, and transporting excess and surplus property, and, in the case of property which is dangerous to public health or safety, destroying or rendering innocuous such property.

(i) The term "person" includes any corporation, partnership, firm, association, trust, estate, or other entity.

(j) The term "nonpersonal services" means such contractual services, other than personal and professional services, as the Administrator shall designate.

(k) The term "contractor inventory" means (1) any property acquired by and in the possession of a contractor or subcontractor under a contract pursuant to the terms of which title is vested in the Government, and in excess of the amounts needed to complete full performance under the entire contract; and (2) any property which the Government is obligated or has the option to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of such contract (or subcontract thereunder), prior to completion of the work, for the convenience or at the option of the Government.

(l) The term "motor vehicle" means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for highway transportation of property or passengers, exclusive of any vehicle designed or used for military field training, combat, or tactical purposes, or used principally within the confines of a regularly established military post, camp, or depot, and any vehicle regularly used by an agency in the performance of investigative, law enforcement, or intelligence duties if the head of such agency determines that exclusive control of such vehicle is essential to the effective performance of such duties.

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The following list shows the section of 40 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

40 U.S.C.	Requirements or Guidelines
472	43 C.F.R. 2370

SELECTED PROVISIONS OF TITLE 41, UNITED STATES CODE— PUBLIC CONTRACTS

Table of Sections of Selected Provisions of Title 41 [12]

TITLE 41, UNITED STATES CODE

PUBLIC CONTRACTS

CHAPTER 1—GENERAL PROVISIONS

Sec. 5a. Definitions
Sec. 11. No contracts or purchases unless authorized or under adequate appropriation; report to Congress.

CHAPTER 7—OFFICE OF FEDERAL PROCUREMENT POLICY

Sec. 422. Cost accounting standards board.

CHAPTER 9—CONTRACT DISPUTES

Sec. 601. Definitions.
Sec. 605. Decisions by contracting officer.
Sec. 611. Interest.

[12] This table of sections is not part of Title 41 but is included for the convenience of the reader.

TITLE 41—PUBLIC CONTRACTS

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CHAPTER 1—GENERAL PROVISIONS

SEC. 5a. DEFINITIONS.

The word "department" as used in this Act shall be construed to include independent establishments, other agencies, wholly owned Government corporations (the transactions of which corporations shall be subject to the authorizations and limitations of this Act, except that section 5 of this title shall apply to their administrative transactions only) and the Government of the District of Columbia, but shall not include the Senate, House of Representatives, or Office of the Architect of the Capitol, or the officers or employees thereof. The words "continental United States" as used herein shall be construed to mean the forty-eight States and the District of Columbia. The word "Government" shall be construed to include the government of the District of Columbia. The word "appropriation" shall be construed as including funds made available by legislation under section 9104 of Title 31.

SEC. 11. NO CONTRACTS OR PURCHASES UNLESS AUTHORIZED OR UNDER ADEQUATE APPROPRIATION; REPORT TO CONGRESS.

(a) No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, except in the Department of Defense and in the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, which, however, shall not exceed the necessities of the current year.

(b) The Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy shall immediately advise the Congress of the exercise of the authority granted in subsection (a) of this section, and shall report quarterly on the estimated obligations incurred pursuant to the authority granted in subsection (a) of this section.

TITLE 41—PUBLIC CONTRACTS

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CHAPTER 7—OFFICE OF FEDERAL PROCUREMENT POLICY

SEC. 422. COST ACCOUNTING STANDARDS BOARD.

(a) ESTABLISHMENT; MEMBERSHIP; TERMS.—(1) There is established within the Office of Federal Procurement Policy an independent board to be known as the "Cost Accounting Standards Board" (hereinafter referred to as the "Board"). The Board shall consist of 5 members, including the Administrator, who shall serve as Chairman, and 4 members, all of whom shall have experience in Government contract cost accounting, and who shall be appointed as follows:

(A) two representatives of the Federal Government—

(i) one of whom shall be a representative of the Department of Defense and be appointed by the Secretary of Defense; and

(ii) one of whom shall be an officer or employee of the General Services Administration appointed by the Administrator of General Services; and

(B) two individuals from the private sector, each of whom shall be appointed by the Administrator and—

(i) one of whom shall be a representative of industry; and

(ii) one of whom shall be particularly knowledgeable about cost accounting problems and systems.

(2)(A) The term of office of each of the members of the Board, other than the Administrator for Federal Procurement Policy, shall be 4 years, except that—

(i) of the initial members, two shall be appointed for terms of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years;

(ii) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed; and

(iii) no individual who is appointed under paragraph (1)(A) of this subsection shall continue to serve after ceasing to be an officer or employee of the agency from which he or she was appointed.

(B) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

(C) The initial members of the Board shall be appointed within 120 days after November 17, 1988.

(b) SENIOR STAFF.—The Administrator, after consultation with the Board, may appoint an executive secretary and two additional

staff members without regard to the provisions of Title 5, governing appointments in the competitive service, and may pay such employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(c) OTHER STAFF.—The Administrator may appoint, fix the compensation, and remove additional employees of the Board under the applicable provisions of Title 5.

(d) DETAILED AND TEMPORARY PERSONNEL.—(1) The Board may use, without reimbursement, any personnel of a Federal agency (with the consent of the head of the agency concerned) to serve on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

(2) The Administrator, after consultation with the Board, may procure temporary and intermittent services under section 3109(b) of Title 5, of personnel for the purpose of serving on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

(e) COMPENSATION.—Except as otherwise provided in subsection (a) of this section the members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are used under subsection (d)(1) of this section shall receive no additional compensation for services, but shall continue to be compensated by the employing Department or agency of such officer or employee. Each member of the Board appointed from private life shall receive compensation at a rate not to exceed the daily equivalent of the rate prescribed for level IV of the Executive Schedule for each day (including travel time) in which the member is engaged in the actual performance of duties vested in the Board. Individuals hired under subsection (d)(2) of this section may receive compensation at rates fixed by the Administrator, but not to exceed the daily equivalent of the rate prescribed for level V of the Federal Executive Salary Schedule under section 5316 of Title 5, for each day (including travel time) in which such appointees are properly engaged in the actual performance of duties under this section. While serving away from homes or the regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of Title 5.

(f) COST ACCOUNTING STANDARDS AUTHORITY.—(1) The Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations thereof designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States.

(2)(A) Cost accounting standards promulgated under this section shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract

and subcontract procurements with the United States in excess of $500,000.

(B) Subparagraph (A) does not apply to the following contracts or subcontracts:

(i) Contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

(iii) Any other firm fixed-price contract or subcontract (without cost incentives) for commercial items.

(C) In this paragraph, the term "subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

(3) The Administrator, after consultation with the Board, shall prescribe rules and procedures governing actions of the Board under this section. Such rules and procedures shall require that any cost accounting standard promulgated, amended, or rescinded (and interpretations thereof) shall be adopted by majority vote of the Board members.

(4) The Board is authorized—

(A) to exempt classes or categories of contractors and subcontractors from the requirements of this section; and

(B) to establish procedures for the waiver of the requirements of this section with respect to individual contracts and subcontracts.

(g) REQUIREMENTS FOR STANDARDS.—(1) Prior to the promulgation under this section of cost accounting standards and interpretations thereof, the Board shall—

(A) take into account, after consultation and discussions with the Comptroller General and professional accounting organizations, contractors, and other interested parties—

(i) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

(ii) the advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

(iii) the scope of, and alternatives available to, the action proposed to be taken;

(B) prepare and publish a report in the Federal Register on the issues reviewed under paragraph (1)(A);

(C)(i) publish an advanced notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to subparagraph (B);

(ii) provide all parties affected a period of not less than 60 days after such publication to submit their views and comments; and

(iii) during this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make; and

(D) publish a notice of such proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

(2) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall have the full force and effect of law, and shall become effective within 120 days after publication in the Federal Register in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of the contractor or subcontractor after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall be accompanied by prefatory comments and by illustrations, if necessary.

(3) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of Title 5.

(h) IMPLEMENTING REGULATIONS.—(1) The Board shall promulgate rules and regulations for the implementation of cost accounting standards promulgated or interpreted under subsection (f) of this section. Such regulations shall be incorporated into the Federal Acquisition Regulation and shall require contractors and subcontractors as a condition of contracting with the United States to—

(A) disclose in writing their cost accounting practices, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs; and

(B) agree to a contract price adjustment, with interest, for any increased costs paid to such contractor or subcontractor by the United States by reason of a change in the contractor's or subcontractor's cost accounting practices or by reason of a failure by the contractor or subcontractor to comply with applicable cost accounting standards.

(2) If the United States and a contractor or subcontractor fail to agree on a contract price adjustment, including whether the contractor or subcontractor has complied with the applicable cost accounting standards, the disagreement will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(3) Any contract price adjustment undertaken pursuant to paragraph (1)(B) shall be made, where applicable, on relevant contracts between the United States and the contractor that are subject to the cost accounting standards so as to protect the United States from payment, in the aggregate, of increased costs (as defined by the Board). In no case shall the Government recover costs greater than the increased cost (as defined by the Board) to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of the price negotiation and which it failed to disclose to the Government.

(4) The interest rate applicable to any contract price adjustment shall be the annual rate of interest established under section 6621 of Title 26 for such period. Such interest shall accrue from the time payments of the increased costs were made to the contractor or subcontractor to the time the United States receives full compensation for the price adjustment.

(i) REPORTS TO CONGRESS.—The Board shall report to the Congress not later than one year after November 17, 1988, and annually thereafter, with respect to the activities and operations of the Board under this section, together with such recommendations as it considers appropriate.

(j) EFFECT ON OTHER STANDARDS AND REGULATIONS.—(1) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations promulgated by the Cost Accounting Standards Board under section 2168 of this Appendix to Title 5 (50 U.S.C. App. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to this section.

(2) Existing cost accounting standards referred to in paragraph (1) shall be subject to the provisions of this Act in the same manner as if promulgated by the Board under this chapter.

(3) The Administrator, under the authority set forth in section 405 of this title, shall ensure that no regulation or proposed regulation of an executive agency is inconsistent with a cost accounting standard promulgated or amended under this section by rescinding or denying the promulgation of any such inconsistent regulation or proposed regulation and taking such other action authorized under section 405 of this title as may be appropriate.

(4) Costs which are the subject of cost accounting standards promulgated under this section shall not be subject to regulations that are established by another executive agency that differ from such standards with respect to the measurement, assignment, and allocation of such costs.

(k) EXAMINATIONS.—For the purpose of determining whether a contractor or subcontractor has complied with cost accounting standards promulgated under this section and has followed consistently the contractor's or subcontractor's disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the offices of inspector general established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

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The following list shows the section of 41 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

41 U.S.C.	Requirements or Guidelines
422	48 C.F.R. 9900, 9901, 9903–9905 OMB: Circular A–21, see appendix IV CASB: Cost Accounting Standards Board, see appendix VIII

TITLE 41—PUBLIC CONTRACTS

* * * * * * *

CHAPTER 9—CONTRACT DISPUTES

SEC. 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 General Accounting 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, the United States Postal Service, and the Postal Rate Commission;

(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.A. Sec. 401 et seq.];

(6) The term "agency board" means an agency board of contract appeals established under section 607 of this title; and

(7) 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.

SEC. 605. DECISION BY CONTRACTING OFFICER.

(a) CONTRACTOR CLAIMS.—All claims by a contractor against the government relating to a contract shall be in writing and shall be submitted to the contracting officer for a decision. All claims by the government against a contractor relating to a contract shall be the subject of a decision by the contracting officer. Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the accrual of the claim. The preceding sentence does not apply to a claim by the government against a contractor that is based on a claim by the contrac-

tor involving fraud. The contracting officer shall issue his decisions in writing, and shall mail or otherwise furnish a copy of the decision to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his rights as provided in this chapter. Specific findings of fact are not required, but, if made, shall not be binding in any subsequent proceeding. The authority of this subsection shall not extend to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine. This section shall not authorize any agency head to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(b) REVIEW; PERFORMANCE OF CONTRACT PENDING APPEAL.—The contracting officer's decision on the claim shall be final and conclusive and not subject to review by any forum, tribunal, or Government agency, unless an appeal or suit is timely commenced as authorized by this chapter. Nothing in this chapter shall prohibit executive agencies from including a clause in government contracts requiring that pending final decision of an appeal, action, or final settlement, a contractor shall proceed diligently with performance of the contract in accordance with the contracting officer's decision.

(c) AMOUNT OF CLAIM; CERTIFICATION; NOTIFICATION; TIME OF ISSUANCE; PRESUMPTION; AUTHORIZATION OF CERTIFIER.—(1) A contracting officer shall issue a decision on any submitted claim of $100,000 or less within sixty days from his receipt of a written request from the contractor that a decision be rendered within that period. For claims of more than $100,000, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his knowledge and belief, that the amount requested accurately reflects the contract adjustment for which the contractor believes the government is liable, and that the certifier is duly authorized to certify the claim on behalf of the contractor.

(2) A contracting officer shall, within sixty days of receipt of a submitted certified claim over $100,000—

(A) issue a decision; or

(B) notify the contractor of the time within which a decision will be issued.

(3) The decision of a contracting officer on submitted claims shall be issued within a reasonable time, in accordance with regulations promulgated by the agency, taking into account such factors as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the contractor.

(4) A contractor may request the tribunal concerned to direct a contracting officer to issue a decision in a specified period of time, as determined by the tribunal concerned, in the event of undue delay on the part of the contracting officer.

(5) Any failure by the contracting officer to issue a decision on a contract claim within the period required will be deemed to be a decision by the contracting officer denying the claim and will authorize the commencement of the appeal or suit on the claim as otherwise provided in this chapter. However, in the event an appeal or suit is so commenced in the absence of a prior decision by the contracting officer, the tribunal concerned may, at its option,

stay the proceedings to obtain a decision on the claim by the contracting officer.

(6) The contracting officer shall have no obligation to render a final decision on any claim of more than $100,000 that is not certified in accordance with paragraph (1) if, within 60 days after receipt of the claim, the contracting officer notifies the contractor in writing of the reasons why any attempted certification was found to be defective. A defect in the certification of a claim shall not deprive a court or an agency board of contract appeals of jurisdiction over that claim. Prior to the entry of a final judgment by a court or a decision by an agency board of contract appeals, the court or agency board shall require a defective certification to be corrected.

(7) The certification required by paragraph (1) may be executed by any person duly authorized to bind the contractor with respect to the claim.

(d) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Notwithstanding any other provision of this chapter, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of Title 5, or other mutually agreeable procedures, for resolving claims. In a case in which such alternative means of dispute resolution or other mutually agreeable procedures are used, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. All provisions of subchapter IV of chapter 5 of Title 5 shall apply to such alternative means of dispute resolution.

(e) CESSATION OF AUTHORITY IN DISPUTE RESOLUTION; PROCEDURES REGARDING SMALL BUSINESS CONTRACTORS.—The authority of agencies to engage in alternative means of dispute resolution proceedings under subsection (d) of this section shall cease to be effective on October 1, 1999, except that such authority shall continue in effect with respect to then pending dispute resolution proceedings which, in the judgment of the agencies that are parties to such proceedings, require such continuation, until such proceedings terminate. In any case in which the contracting officer rejects a contractor's request for alternative dispute resolution proceedings, the contracting officer shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of Title 5, or such other specific reasons that alternative dispute resolution procedures are inappropriate for the resolution of the dispute. In any case in which a contractor rejects a request of an agency for alternative dispute resolution proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.

SEC. 611. INTEREST.

Interest on amounts found due contractors on claims shall be paid to the contractor from the date the contracting officer receives the claim pursuant to section 605(a) of this title from the contractor until payment thereof. The interest provided for in this section shall be paid at the rate established by the Secretary of the Treas-

ury pursuant to Public Law 92–41 (85 Stat. 97) for the Renegotiation Board.

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The following list shows the section of 41 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

41 U.S.C.	Requirements or Guidelines
601–613	7 C.F.R. 24; 24 C.F.R. 20; 38 C.F.R. 1; 43 C.F.R. 4; 48 C.F.R. 6101

SELECTED PROVISIONS OF TITLE 44, UNITED STATES CODE— PUBLIC PRINTING AND DOCUMENTS

Table of Sections of Selected Provisions of Title 44[13]

TITLE 44, UNITED STATES CODE

PUBLIC PRINTING AND DOCUMENTS

CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

Sec. 3502. Definitions.

[13] This table of sections is not part of Title 44 but is included for the convenience of the reader.

TITLE 44—PUBLIC PRINTING AND DOCUMENTS

* * * * * * *

CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

SEC. 3502. DEFINITIONS.

As used in this chapter—

(1) the term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

(A) the General Accounting Office;

(B) Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

(2) the term "burden" means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

(A) reviewing instructions;

(B) acquiring, installing, and utilizing technology and systems;

(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

(D) searching data sources;

(E) completing and reviewing the collection of information; and

(F) transmitting, or otherwise disclosing the information;

(3) the term "collection of information"—

(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

(B) shall not include a collection of information described under section 3518(c)(1);

(4) the term "Director" means the Director of the Office of Management and Budget;

(5) the term "independent regulatory agency" means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

(6) the term "information resources" means information and related resources, such as personnel, equipment, funds, and information technology;

(7) the term "information resources management" means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

(8) the term "information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

(9) the term "information technology" has the same meaning as the term "automatic data processing equipment" as defined by section 111(a)(2) and (3)(C)(i) through (v) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2) and (3)(C)(i) through (v));

(10) the term "person" means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision;

(11) the term "practical utility" means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

(12) the term "public information" means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public;

(13) the term "recordkeeping requirement" means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to—

(A) retain such records;

(B) notify third parties, the Federal Government, or the public of the existence of such records;

(C) disclose such records to third parties, the Federal Government, or the public; or

(D) report to third parties, the Federal Government, or the public regarding such records; and

(14) the term "penalty" includes the imposition by an agency or court of a fine or other punishment; a judgment for monetary damages or equitable relief; or the revocation, suspension, reduction, or denial of a license, privilege, right, grant, or benefit.

* * * * * * *

The following list shows the section of 44 U.S.C. and the related requirements or guidelines issued by federal agencies or entities:

44 U.S.C.	Requirements or Guidelines
3501–3520	18 C.F.R. 389; 41 C.F.R. 60–999; 46 C.F.R. 501; 50 C.F.R. 204

DEBT COLLECTION IMPROVEMENT ACT OF 1996

Debt Collection Improvement Act of 1996 [14]

(Public Law 104–134)

(a)(1) This section may be cited as the "Debt Collection Improvement Act of 1996".

(2)(A) IN GENERAL.—The provisions of this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(B) OFFSETS FROM SOCIAL SECURITY PAYMENTS, ETC.—Subparagraph (A) of section 3716(c)(3) of title 31, United States Code (as added by subsection (d)(2) of this section), shall apply only to payments made after the date which is 4 months after the date of the enactment of this Act.

(b) The purposes of this section are the following:

(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.

(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.

(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies.

(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their financial obligations to repay amounts owed to the Federal Government.

(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.

(c) Chapter 37 of title 31, United States Code, is amended—

(1) in each of sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting "the head of an executive, judicial, or legislative agency"; and

(2) by amending section 3701(a)(4) to read as follows:

[14] This Act is Section 31001 of Public Law 104–134, the "Omnibus Consolidated Rescissions and Appropriations Act of 1996," enacted on April 26, 1996.

"(4) 'executive, judicial, or legislative agency' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including government corporations."

(d)(1) PERSONS SUBJECT TO ADMINISTRATIVE OFFSET.—Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government."

(2) REQUIREMENTS AND PROCEDURES.—Section 3716 of title 31, United States Code, is amended—

(A) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

"(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office, or the Department of the Treasury; or

"(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).";

(B) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved."

(C) by redesignating subsection (c) as subsection (e); and

(D) by inserting after subsection (b) the following new subsections:

"(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A)(i) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Social Security Act (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C.

923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), except as provided in clause (ii), all payments due to an individual under—

"(I) the Social Security Act,

"(II) part B of the Black Lung Benefits Act, or

"(III) any law administered by the Railroad Retirement Board (other than payments that such Board determines to be tier 2 benefits), shall be subject to offset under this section.

"(ii) An amount of $9,000 which a debtor may receive under Federal benefit programs cited under clause (i) within a 12-month period shall be exempt from offset under this subsection. In applying the $9,000 exemption, the disbursing official shall—

"(I) reduce the $9,000 exemption amount for the 12-month period by the amount of all Federal benefit payments made during such 12-month period which are not subject to offset under this subsection; and

"(II) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(B) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

"(C) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any administrative offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act, respectively.

"(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury in consultation with the Commissioner of Social Security and the Director of the Office of Management and Budget, may prescribe such rules, regulations, and

procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

"(6) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

"(7)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

"(i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset.

"(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

"(8) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

"(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.".

(3) NONTAX DEBT OR CLAIM DEFINED.—Section 3701 of title 31, United States Code, is amended in subsection (a) by adding at the end the following new paragraph:

"(8) 'nontax' means, with respect to any debt or claim, any debt or claim other than a debt or claim under the Internal Revenue Code of 1986.".

(4) TREASURY CHECK WITHHOLDING.—Section 3712 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) TREASURY CHECK OFFSET.—

"(1) IN GENERAL.—To facilitate collection of amounts owed by presenting banks pursuant to subsection (a) or (b), upon the direction of the Secretary, a Federal reserve bank shall withhold credit from banks presenting Treasury checks for ultimate charge to the account of the United States Treasury. By presenting Treasury checks for payment a presenting bank is deemed to authorize this offset.

"(2) ATTEMPT TO COLLECT REQUIRED.—Prior to directing offset under subsection (a)(1), the Secretary shall first attempt to

collect amounts owed in the manner provided by sections 3711 and 3716."

(e) Section 3716 of title 31, United States Code, as amended by subsection (d)(2) of this section, is further amended by adding at the end the following new subsections:

"(f) The Secretary may waive the requirements of sections 552a(o) and (p) of title 5 for administrative offset or claims collection upon written certification by the head of a State or an executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

"(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.".

(f) Section 3716 of title 31, United States Code, as amended by subsections (d) and (e) of this section, is further amended by adding at the end the following new subsection:

"(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

"(A) the appropriate State disbursing official requests that an offset be performed; and

"(B) a reciprocal agreement with the State is in effect which contains, at a minimum—

"(i) requirements substantially equivalent to subsection (b) of this section; and

"(ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

"(2) This subsection does not apply to—

"(A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;

"(B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or

"(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.

"(3) In applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.".

(g)(1) TITLE 31.—Title 31, United States Code, is amended—

(A) in section 3322(a), by inserting "section 3716 and section 3720A of this title and" after "Except as provided in";

(B) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title," after "voucher"; and

(C) in each of sections 3711(e)(2) and 3717(h) by inserting ", the Secretary of the Treasury," after "Attorney General".

(2) INTERNAL REVENUE CODE OF 1986.—Subparagraph (A) of section 6103(l)(10) of the Internal Revenue Code of 1986 (26 U.S.C.

6103(l)(10)) is amended by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" after "6402".

(h) Section 5514 of title 5, United States Code, is amended—

(A) in subsection (a)—

(i) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

(ii) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(iii) by inserting after paragraph (2) the following new paragraph:

"(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment."; and

(iv) by amending paragraph (5)(B) (as redesignated by clause (ii) of this subparagraph) to read as follows:

"(B) 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.";

(B) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over other deductions under this section.".

(i)(1) IN GENERAL.—Section 7701 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(c)(1) The head of each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(2) For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

"(B) an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by the agency; and

"(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

"(3) Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.

"(4) For purposes of this subsection, a person shall not be treated as doing business with a Federal agency solely by reason of being a debtor under third party claims of the United States. The preceding sentence shall not apply to a debtor owing claims resulting from petroleum pricing violations or owing claims resulting from Federal loan or loan guarantee/insurance programs.

"(d) Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services, and Department of Labor records to obtain names (including names of employees), name controls, names of employers, taxpayer identifying numbers, addresses (including addresses of employers), and dates of birth. The preceding sentence shall apply to the disclosure of taxpayer identifying numbers only if such disclosure is not otherwise prohibited by section 6103 of the Internal Revenue Code of 1986. The Department of Health and Human Services, and the Department of Labor shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.".

(2) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—Subparagraph (C) of section 6103(l)(3) of the Internal Revenue Code of 1986 (relating to disclosure that applicant for Federal loan has tax delinquent account) is amended to read as follows:

"(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—For purposes of this paragraph, the term 'included Federal loan program' means any program under which the United States or a Federal agency makes, guarantees, or insures loans.".

(3) CLERICAL AMENDMENTS.—

(A) The chapter title to chapter 77 of subtitle VI of title 31, United States Code, is amended to read as follows:

"CHAPTER 77—ACCESS TO INFORMATION FOR DEBT COLLECTION".

(B) The table of chapters for subtitle VI of title 31, United States Code, is amended by inserting before the item relating to chapter 91 the following new item:

"77. Access to information for debt collection ..... 7701".

(j)(1) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720A the following new section:

"SEC. 3720B. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN INSURANCE GUARANTEES.

"(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan) or loan insurance or guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

"(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN INSURANCE GUARANTEES.".

(k) Section 3711(f) of title 31, United States Code, is amended—

(1) by striking "may" the first place it appears and inserting "shall";

(2) by striking "an individual" each place it appears and inserting "a person";

(3) by striking "the individual" each place it appears and inserting "the person"; and

(4) by adding at the end the following new paragraphs:

"(4) The head of each executive agency shall require, as a condition for insuring or guaranteeing any loan, financing, or other extension of credit under any law to a person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

"(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.".

(l) Section 3718 of title 31, United States Code, is amended—

(1) in subsection (a), by striking the first sentence and inserting the following: "Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(2) in subsection (d), by inserting ", or to locate or recover assets of," after "owed".

(m)(1) IN GENERAL.—Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or foreclosure;

"(ii) will be disposed of under an asset sales program within 1 year after becoming eligible for sale, or later than 1 year if consistent with an asset sales program and a schedule established by the agency and approved by the Director of the Office of Management and Budget;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a private collection contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) Nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of private collection contractors and debt collection centers eligible for referral of claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable)—

"(A) administrative offset,
"(B) tax refund offset,
"(C) Federal salary offset,
"(D) referral to private collection contractors,
"(E) referral to agencies operating a debt collection center,
"(F) reporting delinquencies to credit reporting bureaus,
"(G) garnishing the wages of delinquent debtors, and
"(H) litigation or foreclosure.

"(10) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary and transfer such funds from funds appropriated to the Department of the Treasury as may be necessary to meet existing liabilities and obligations incurred prior to the receipt of revenues that result from debt collections.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a) (1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

(2) RETURNS RELATING TO CANCELLATION OF INDEBTEDNESS BY CERTAIN ENTITIES.—

(A) IN GENERAL.—Subsection (a) of section 6050P of the Internal Revenue Code of 1986 (relating to returns relating to the cancellation of indebtedness by certain financial entities) is amended by striking "applicable financial entity" and inserting "applicable entity".

(B) ENTITIES TO WHICH REQUIREMENT APPLIES.—Subsection (c) of section 6050P of such Code is amended—

(i) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) APPLICABLE ENTITY.—The term 'applicable entity' means—

"(A) an executive, judicial, or legislative agency (as defined in section 3701(a)(4) of title 31, United States Code), and

"(B) an applicable financial entity.", and

(ii) in paragraph (3), as so redesignated, by striking "(1)(B)" and inserting "(1)(A) or (2)(B)".

(C) ALTERNATIVE PROCEDURE.—Section 6050P of such Code is amended by adding at the end the following new subsection:

"(e) ALTERNATIVE PROCEDURE.—In lieu of making a return required under subsection (a), an agency described in subsection (c)(1)(A) may submit to the Secretary (at such time and in such form as the Secretary may by regulations prescribe) information sufficient for the Secretary to complete such a return on behalf of such agency. Upon receipt of such information, the Secretary shall complete such return and provide a copy of such return to such agency."

(D) CONFORMING AMENDMENTS.—

(i) Subsection (d) of section 6050P of such Code is amended by striking "applicable financial entity" and inserting "applicable entity".

(ii) The heading of section 6050P of such Code is amended to read as follows:

"SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN ENTITIES."

(iii) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050P and inserting the following new item:

"Sec. 6050P. Returns relating to the cancellation of indebtedness by certain entities."

(n) Effective October 1, 1995, section 11 of the Administrative Dispute Resolution Act (Public Law 101–552, 5 U.S.C. 571 note) shall not apply to the amendment made by section 8(b) of such Act.

(o)(1) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720C, as added by subsection (t) of this section, the following new section:

"SEC. 3720D. GARNISHMENT.

"(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

"(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

"(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

"(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

"(A) the nature and amount of the debt to be collected;

"(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

"(C) an explanation of the rights of the individual under this section.

"(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

"(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

"(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

"(A) the existence or the amount of the debt, and

"(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

"(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

"(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

"(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order.

"(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

"(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

"(f)(1) The employer of an individual—

"(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

"(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

"(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

"(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

"(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

"(g) For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

"(h) The Secretary of the Treasury shall issue regulations to implement this section.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720C (as added by subsection (t) of this section) the following new item:

"§ 3720D. Garnishment".

(p) Section 3711 of title 31, United States Code, as amended by subsection (m) of this section, is further amended by adding at the end the following new subsection:

"(i)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

"(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interests of the United States.

"(3) Sales of nontax debt under this subsection—

"(A) shall be for—

"(i) cash, or

"(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

"(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

"(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with

respect to a residuary equity or profit participation under subparagraph (A)(ii).

"(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1996, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

"(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

"(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

"(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

"(v) The marketability of all debts.

"(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.".

(q) Section 3717 of title 31, United States Code, is amended by adding at the end of subsection (h) the following new subsection:

"(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

"(2) For the purpose of this subsection—

"(A) the term 'cost of living adjustment' means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the

Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

"(B) the term 'administrative claim' includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.".

(r)(1) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720D, as added by subsection (o) of this section, the following new section:

"§ 3720E. Dissemination of information regarding identity of delinquent debtors

"(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

"(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

"(2) Regulations under this subsection shall include—

"(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

"(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

"(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3720D (as added by subsection (o) of this section) the following new item:

"3720E. Dissemination of information regarding identity of delinquent debtors.".

(s)(1) IN GENERAL.—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(A) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter—

"(1) by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986, the Tariff Act of 1930, the Occupational Safety and Health Act of 1970, or the Social Security Act, by the inflation adjustment described under section 5 of this Act; and

"(2) publish each such regulation in the Federal Register.";

(B) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment under section 4"; and

(C) by adding at the end the following new section:

"SEC. 7. Any increase under this Act in a civil monetary penalty shall apply only to violations which occur after the date the increase takes effect."

(2) LIMITATION ON INITIAL ADJUSTMENT.—The first adjustment of a civil monetary penalty made pursuant to the amendment made by paragraph (1) may not exceed 10 percent of such penalty.

(t)(1) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720B (as added by subsection (j) of this section) the following new section:

"SEC. 3720C. DEBT COLLECTION IMPROVEMENT ACCOUNT.

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter in this section referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative, and tax refund offsets;

"(B) the Department of Justice;

"(C) private collection agencies;

"(D) sales of delinquent loans; and

"(E) contracts to locate or recover assets.

"(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

"(A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or

"(B) 5 percent of the average annual amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

"(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

"(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

"(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

"(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this section, the term 'qualified expenses' means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

"(A) account servicing (including cross-servicing under section 3711(g) of this title),

"(B) automatic data processing equipment acquisitions,

"(C) delinquent debt collection,

"(D) measures to minimize delinquent debt,

"(E) sales of delinquent debt,

"(F) asset disposition, and

"(G) training of personnel involved in credit and debt management.

"(3)(A) Amounts transferred to the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriations Acts.

"(B) As soon as practicable after the end of the third fiscal year after which amounts transferred are first available pursuant to this section, and every 3 years thereafter, any uncommitted balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B (as added by subsection (j) of this section) the following new item:

"3720C. Debt Collection Improvement Account.".

(u)(1) DISCRETIONARY AUTHORITY.—Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion."

(2) FEDERAL AGENCY DEFINED.—Section 6402(f) of the Internal Revenue Code of 1986 (26 U.S.C. 6402(f)) is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code)."

(v)(1) NOTIFICATION OF SECRETARY OF THE TREASURY.—Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party

acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt."

(2) IMPLEMENTATION OF SUPPORT COLLECTION BY SECRETARY OF THE TREASURY.—Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end the following: "This subsection may be executed by the disbursing official of the Department of the Treasury."; and

(2) in paragraph (2)(A), by adding at the end the following: "This subsection may be executed by the Secretary of the Department of the Treasury or his designee.".

(w) Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The disbursing official of the Department of the Treasury—

"(1) shall notify a taxpayer in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable nontax debt;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset;

"(2) shall notify the Internal Revenue Service on a weekly basis of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(B) the amount of such offset; and

"(C) any other information required by regulations; and

"(3) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as that term is used in section 6109 of the Internal Revenue Code of 1986), and any other necessary identifiers.".

"(h)(2) The term 'disbursing official' of the Department of the Treasury means the Secretary or his designee."

(x)(1) AMENDMENTS RELATING TO ELECTRONIC FUNDS TRANSFER.—Section 3332 of title 31, United States Code, popularly known as the Federal Financial Management Act of 1994, is amended—

(A) by redesignating subsection (e) as subsection (h), and inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120 (a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payment after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1996 shall be made by electronic funds transfer.

"(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not

have an account with a financial institution or an authorized payment agent.

"(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120 (a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

"(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

"(i) for individuals or classes of individuals for whom compliance imposes a hardship;

"(ii) for classifications or types of checks; or

"(iii) in other circumstances as may be necessary.

"(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

"(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—

"(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and

"(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments through each institution or agent designated under paragraph (1)."; and

(B) by adding after subsection (h) (as so redesignated) the following new subsections:

"(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

"(2) Regulations under this subsection shall ensure that individuals required under subsection (g) to have an account at a financial institution because of the application of subsection (f)(1)—

"(A) will have access to such an account at a reasonable cost; and

"(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

"(j) For purposes of this section—

"(1) The term 'electronic funds transfer' means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

"(2) The term 'Federal agency' means—

"(A) an agency (as defined in section 101 of this title); and

"(B) a Government corporation (as defined in section 103 of title 5).

"(3) The term 'Federal payments' includes—

"(A) Federal wage, salary, and retirement payments;

"(B) vendor and expense reimbursement payments; and

"(C) benefit payments.

Such term shall not include any payment under the Internal Revenue Code of 1986."

(2) AMENDMENTS RELATING TO SUBSTITUTE CHECKS.—Section 3331 of title 31, United States Code, is amended—

(A) in subsection (b), by striking "subsection (c)" and inserting "subsection (c) or (f)";

(B) by redesignating subsection (f) as subsection (g); and

(C) by inserting after subsection (e) the following new subsection:

"(f) The Secretary may waive any provision of this section as may be necessary to ensure that claimants receive timely payments.".

(3) PERMANENT FUNDING OF THE CHECK FORGERY INSURANCE FUND.—Section 3343 of title 31, United States Code, is amended—

(A) in subsection (a), by amending the second sentence to read as follows: "Necessary amounts are hereafter appropriated to the Fund out of any moneys in the Treasury not otherwise appropriated, and shall remain available until expended to make the payments required or authorized under this section.";

(B) in subsection (b)—

(i) by inserting "in the determination of the Secretary the payee or special endorse establishes that" after "without interest if";

(ii) in paragraph (2), by inserting "and" after the semicolon;

(iii) in paragraph (3), by striking "; and" and inserting a period; and

(iv) by striking paragraph (4);

(C) in subsection (d), by inserting after the first sentence the following new sentence: "The Secretary may use amounts in the Fund to reimburse payment certifying or authorizing agencies for any payment that the Secretary determines would otherwise have been payable from the Fund, and may reimburse certifying or authorizing agencies with amounts recovered because of payee nonentitlement;"

(D) by redesignating subsection (e) as subsection (g); and

(E) by inserting after subsection (d) the following new subsections:

"(e) The Secretary may waive any provision of this section as may be necessary to ensure that claimants receive timely payments.

"(f) Under such conditions as the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may redelegate those duties and powers to officers or employees of the agency.".

(y) Section 3325 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) The head of an executive agency or an officer or employee of an executive agency referred to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identifying

number of each person to whom payment may be made under the voucher.".

(z)(1) IN GENERAL.—Section 3701 of title 31, United States Code, is amended—

(A) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(B) by amending subsection (b) to read as follows:

"(b)(1) In subchapter II of this chapter and subsection (a)(8) of this section, the term 'claim' or 'debt' means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

"(A) funds owed on account of loans made, insured, or guaranteed by the Government, including any deficiency or any difference between the price obtained by the Government in the sale of a property and the amount owed to the Government on a mortgage on the property,

"(B) expenditures of nonappropriated funds,

"(C) over-payments, including payments disallowed by audits performed by the Inspector General of the agency administering the program,

"(D) any amount the United States is authorized by statute to collect for the benefit of any person,

"(E) the unpaid share of any non-Federal partner in a program involving a Federal payment and a matching, or cost-sharing, payment by the non-Federal partner,

"(F) any fines or penalties assessed by an agency; and

"(G) other amounts of money or property owed to the Government.

"(2) For purposes of section 3716 of this title, each of the terms 'claim' and 'debt' includes an amount of funds or property owed by a person to a State (including any past-due support being enforced by the State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.";

(C) by adding after subsection (d) the following new subsection:

"(e) In section 3716 of this title—

"(1) 'creditor agency' means any agency owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any agency that has transmitted a voucher to a disbursing official for disbursement.

"(f) In section 3711 of this title, 'private collection contractor' means private debt collectors under contract with an agency to collect a nontax debt or claim owed the United States. The term includes private debt collectors, collection agencies, and commercial attorneys."; and

(D) by amending subsection (d) to read as follows:

"(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under—

"(1) the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.),

"(2) the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under section 204(f) of such Act and section 3716(c) of this title, or

"(3) the tariff laws of the United States.".

(2) SOCIAL SECURITY.—

(A) APPLICATION OF AMENDMENTS MADE BY THIS ACT.—Subsection (f) of section 204 of the Social Security Act (42 U.S.C. 404) is amended to read as follows:

"(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31, United States Code and in section 5514 of title 5, United States Code, as in effect immediately after the enactment of the Debt Collection Improvement Act of 1996."

(B) PERMANENT APPLICATION.—Subsection (c) of section 5 of the Social Security Domestic Reform Act of 1994 (Public Law 103–387) is amended by striking "and before" and all that follows and inserting a period.

(aa)(1) GUIDELINES.—The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by subsection (m) of this section.

(3) AGENCY REPORTS.—Section 3719 of title 31, United States Code, is amended—

(A) in subsection (a)—

(i) by amending the first sentence to read as follows: "In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency."; and

(ii) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(B) in subsection (b), by striking "Director" and inserting "Secretary."

(4) CONSOLIDATION OF REPORTS.—Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report.

(bb) The Director of the Office of Management and Budget shall—

(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

(2) determine whether those standards and policies are consistent and protect the interests of the United States;

(3) in the case of any Federal agency standard or policy that the Director determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

(4) report annually to the Congress on—

(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

(B) progress made in improving those standards and policies.

(cc)(1) ELIMINATION OF MINIMUM NUMBER OF CONTRACTS.—Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(2) REPEAL.—Sections 3 and 5 of the Act of October 28, 1986 (popularly known as the Federal Debt Recovery Act; Public Law 99–578, 100 Stat. 3305) are hereby repealed.

SINGLE AUDIT ACT
AMENDMENTS OF
1996

Single Audit Act

Amendments of 1996

Public Law 104–156

(110 Stat. 1391)

AN ACT To streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act").

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Single Audit Act Amendments of 1996".

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

(1) promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities;

(2) establish uniform requirements for audits of Federal awards administered by non-Federal entities;

(3) promote the efficient and effective use of audit resources;

(4) reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and

(5) ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by this Act).

SEC. 2. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Chapter 75 of title 31, United States Code, is amended to read as follows:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.
"7501. Definitions.
"7502. Audit requirements; exemptions.
"7503. Relation to other audit requirements.
"7504. Federal agency responsibilities and relations with non-Federal entities.
"7505. Regulations.
"7506. Monitoring responsibilities of the Comptroller General.
"7507. Effective date.

"§ 7501. Definitions

"(a) As used in this chapter, the term—

"(1) 'Comptroller General' means the Comptroller General of the United States;

"(2) 'Director' means the Director of the Office of Management and Budget;

"(3) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5;

"(4) 'Federal awards' means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

"(5) 'Federal financial assistance' means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

"(6) 'Federal program' means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

"(7) 'generally accepted government auditing standards' means the government auditing standards issued by the Comptroller General;

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

"(B) a public accountant who meets such independence standards;

"(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(10) 'internal controls' means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

"(A) Effectiveness and efficiency of operations.

"(B) Reliability of financial reporting.

"(C) Compliance with applicable laws and regulations;

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

"(12) 'major program' means a Federal program identified in accordance with risk-based criteria prescribed by the Director under this chapter, subject to the limitations described under subsection (b);

"(13) 'non-Federal entity' means a State, local government, or nonprofit organization;

"(14) 'nonprofit organization' means any corporation, trust, association, cooperative, or other organization that—

"(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

"(B) is not organized primarily for profit; and

"(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

"(15) 'pass-through entity' means a non-Federal entity that provides Federal awards to a subrecipient to carry out a Federal program;

"(16) 'program-specific audit' means an audit of one Federal program;

"(17) 'recipient' means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

"(18) 'single audit' means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

"(19) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

"(20) 'subrecipient' means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

"(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

"(1) the larger of $30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $10,000,000,000;

"(2) the larger of $3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $10,000,000,000; or

"(3) the larger of $300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed $300,000 but are less than or equal to $100,000,000.

"(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's

total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

"(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

"§ 7502. Audit requirements; exemptions

"(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

"(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

"(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

"(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than $300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

"(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

"(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below $300,000.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits

less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, performance audits shall not be required except as authorized by the Director.

"(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

"(1) cover the operations of the entire non-Federal entity; or

"(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

"(e) The auditor shall—

"(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

"(2) determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;

"(3) with respect to internal controls pertaining to the compliance requirements for each major program—

"(A) obtain an understanding of such internal controls;

"(B) assess control risk; and

"(C) perform tests of controls unless the controls are deemed to be ineffective; and

"(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

"(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

"(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

"(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

"(2) Each pass-through entity shall—

"(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

"(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

"(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

"(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

"(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director.

"(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

"(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

"(1) 30 days after receipt of the auditor's report; or

"(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

"(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria issued under section 7504, when the 9-month timeframe would place an undue burden on the non-Federal entity.

"(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated

by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

"(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

"§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

"(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

"(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

"(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

"(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

"§ 7504. Federal agency responsibilities and relations with non-Federal entities

"(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

"(1) monitor non-Federal entity use of Federal awards, and

"(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

"(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

"(c) The Director shall designate a Federal clearinghouse to—

"(1) receive copies of all reporting packages developed in accordance with this chapter;

"(2) identify recipients that expend $300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

"(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

"§ 7505. Regulations

"(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

"(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

"(A) the cost of any audit which is—

"(i) not conducted in accordance with this chapter; or

"(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

"(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

"(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"§ 7506. Monitoring responsibilities of the Comptroller General

"(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

"(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

"§ 7507. Effective date

"This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996.".

SEC. 3. TRANSITIONAL APPLICATION.

Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act) the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.

MAJOR LAWS ON
FINANCIAL MANAGEMENT
(Original Acts)

Major Laws on Financial Management (Original Acts)

Laws enacted are often codified in multiple sections in the Code. To provide users of this report the entire text of important laws and to provide a historical perspective, 11 major laws [15] effecting financial management are included herein in the original text when enacted.

The 11 major laws in the order enacted are:

1. Budget and Accounting Act of 1921
2. Budget and Accounting Procedures Act of 1950
3. Legislative Reorganization Act of 1970 (Parts 1, 2, and 3)
4. Impoundment Control Act of 1974
5. Federal Managers' Financial Integrity Act of 1982
6. Debt Collection Act of 1982
7. Single Audit Act of 1984
8. Chief Financial Officers Act of 1990
9. Cash Management Improvement Act Amendments of 1992
10. Government Performance and Results Act of 1993
11. Government Management Reform Act of 1994

Several of these laws have been amended by subsequent laws. These amendments are reflected in the Code contained in this Print. Appendix IX, "Popular Names of Selected Major Laws Cross-Indexed to Sections of the United States Code and Statute or Public Law" contains an alphabetic listing of these 11 laws (as well as other laws) with the related U.S.C. cite.

However, for laws numbered 5 through 11 listed above, we provide a reference if the law has been amended as of December 31, 1995.

[15] A twelfth law, "The Inspector General Act of 1978," is important, however, it is not included in this part of the report since the pertinent sections appear in their entirety, as amended, in appendix 3 of Title 5 (5 U.S.C. App 3) in this report.

Budget and Accounting Act, 1921

(Chapter 18, 42 Stat. 20)

TITLE I—DEFINITIONS

SECTION 1. This Act may be cited as the "Budget and Accounting Act, 1921."

SEC 2. When used in this Act—

The terms "department and establishment" and "department or establishment" mean any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including the municipal government of the District of Columbia, but do not include the Legislative Branch of the Government or the Supreme Court of the United States;

The term "the Budget" means the Budget required by section 201 to be transmitted to Congress;

The term "Bureau" means the Bureau of the Budget;

The term "Director" means the Director of the Bureau of the Budget; and

The term "Assistant Director" means the Assistant Director of the Bureau of the Budget.

TITLE II—THE BUDGET

SEC. 201. The President shall transmit to Congress on the first day of each regular session, the Budget, which shall set forth in summary and in detail:

(a) Estimates of the expenditures and appropriations necessary in his judgment for the support of the Government for the ensuing fiscal year; except that the estimates for such year for the Legislative Branch of the Government and the Supreme Court of the United States shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision;

(b) His estimates of the receipts of the Government during the ensuing fiscal year, under (1) laws existing at the time the Budget is transmitted and also (2) under the revenue proposals, if any, contained in the Budget;

(c) The expenditures and receipts of the Government during the last completed fiscal year;

(d) Estimates of the expenditures and receipts of the Government during the fiscal year in progress;

(e) The amount of annual, permanent, or other appropriations, including balances of appropriations for prior fiscal years, available for expenditure during the fiscal year in progress, as of November 1 of such year;

(f) Balanced statements of (1) the condition of the Treasury at the end of the last completed fiscal year, (2) the estimated condi-

tion of the Treasury at the end of the fiscal year in progress, and (3) the estimated condition of the Treasury at the end of the ensuing fiscal year if the financial proposals contained in the Budget are adopted.

(g) All essential facts regarding the bonded and other indebtedness of the Government; and

(h) Such other financial statements and data as in his opinion are necessary or desirable in order to make known in all practicable detail the financial condition of the Government.

SEC. 202. (a) If the estimated receipts for the ensuing fiscal year contained in the Budget, on the basis of laws existing at the time the Budget is transmitted, plus the estimated amounts in the Treasury at the close of the fiscal year in progress, available for expenditure in the ensuing fiscal year, are less than the estimated expenditures for the ensuing fiscal year contained in the Budget, the President in the Budget shall make recommendations to Congress for new taxes, loans, or other appropriate action to meet the estimated deficiency.

(b) If the aggregate of such estimated receipts and such estimated amounts in the Treasury is greater than such estimated expenditures for the ensuing fiscal year, he shall make such recommendations as in his opinion the public interests require.

SEC. 203. (a) The President from time to time may transmit to Congress supplemental or deficiency estimates for such appropriations or expenditures as in his judgment (1) are necessary on account of laws enacted after the transmission of the Budget, or (2) are otherwise in the public interest. He shall accompany such estimates with a statement of the reasons therefor, including the reasons for their omission from the Budget.

(b) Whenever such supplemental or deficiency estimates reach an aggregate which, if they had been contained in the Budget, would have required the President to make a recommendation under subdivision (a) of section 202, he shall thereupon make such recommendation.

SEC. 204. (a) Except as otherwise provided in this Act, the contents, order, and arrangement of the estimates of appropriations and the statements of expenditures and estimated expenditures contained in the Budget or transmitted under Section 203, and the notes and other data submitted therewith, shall conform to the requirements of existing law.

(b) Estimates for lump-sum appropriations contained in the Budget or transmitted under section 203 shall be accompanied by statements showing, in such detail and form as may be necessary to inform Congress, the manner of expenditure of such appropriations and of the corresponding appropriations for the fiscal year in progress and the last completed fiscal year. Such statements shall be in lieu of statements of like character now required by law.

SEC. 205. The President, in addition to the Budget, shall transmit to Congress on the first Monday in December, 1921, for the service of the fiscal year ending June 30, 1923, only, an alternative budget, which shall be prepared in such form and amounts and according to such system of classification and itemization as is, in his opinion, most appropriate, with such explanatory notes and tables

as may be necessary to show where the various items embraced in the Budget are contained in such alternative budget.

SEC. 206. No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress.

SEC. 207. There is hereby created in the Treasury Department a Bureau to be known as the Bureau of the Budget. There shall be in the Bureau a Director and an Assistant Director, who shall be appointed by the President and receive salaries of $10,00 and $7,500 a year, respectively. The Assistant Director shall perform such duties as the Director may designate, and during the absence or incapacity of the Director or during a vacancy in the office of Director he shall act as Director. The Bureau, under such rules and regulations as the President may prescribe, shall prepare for him the Budget, the alternative Budget, and any supplemental or deficiency estimates, and to this end shall have authority to assemble, correlate, revise, reduce, or increase the estimates of the several departments or establishments.

SEC. 208. (a) The Director, under such rules and regulations as the President may prescribe, shall appoint and fix the compensation of attorneys and other employees and make expenditures for rent in the District of Columbia, printing, binding, telegrams, telephone service, law books, books of reference, periodicals, stationery, furniture, office equipment, other supplies, and necessary expenses of the office, within the appropriations made therefor.

(b) No person appointed by the Director shall be paid a salary at a rate in excess of $6,000 a year, and not more than four persons so appointed shall be paid a salary at a rate in excess of $5,000 a year.

(c) All employees in the Bureau whose compensation is at a rate of $5,000 a year or less shall be appointed in accordance with the civil-service laws and regulations.

(d) The provisions of law prohibiting the transfer of employees of executive departments and independent establishments until after service of three years shall not apply during the fiscal years ending June 30, 1921, and June 30, 1922, to the transfer of employees to the Bureau.

(e) The Bureau shall not be construed to be a bureau or office created since January 1, 1916, so as to deprive employees therein of the additional compensation allowed civilian employees under the provisions of section 6 of the Legislative, Executive, and Judicial Appropriation Act for the fiscal years ending June 30, 1921, and June 30, 1922, if otherwise entitled thereto.

SEC. 209. The Bureau, when directed by the President, shall make a detailed study of the departments and establishments for the purpose of enabling the President to determine what changes (with a view of securing greater economy and efficiency in the conduct of the public service) should be made in (1) the existing organization, activities, and methods of business of such departments or establishments, (2) the appropriations therefor, (3) the assignment of particular activities to particular services, or (4) the re-

grouping of services. The results of such study shall be embodied in a report or reports to the President, who may transmit to Congress such report or reports or any part thereof with his recommendations on the matters covered thereby.

SEC. 210. The Bureau shall prepare for the President a codification of all laws or parts of laws relating to the preparation and transmission to Congress of statements of receipts and expenditures of the Government and of estimates of appropriations. The President shall transmit the same to Congress on or before the first Monday in December, 1921, with a recommendation as to the changes which, in his opinion, should be made in such laws or parts of laws.

SEC. 211. The powers and duties relating to the compiling of estimates now conferred and imposed upon the Division of Bookkeeping and Warrants of the office of the Secretary of the Treasury are transferred to the Bureau.

SEC. 212. The Bureau shall, at the request of any committee of either House of Congress having jurisdiction over revenue or appropriations, furnish the committee such aid and information as it may request.

SEC. 213. Under such regulations as the President may prescribe, (1) every department and establishment shall furnish to the Bureau such information as the Bureau may from time to time require, and (2) the Director and the Assistant Director, or any employee of the Bureau when duly authorized, shall, for the purpose of securing such information, have access to, and the right to examine, any books, documents, papers, or records of any such department or establishment.

SEC. 214. (a) The head of each department and establishment shall designate an official thereof as budget officer therefor, who, in each year under his direction and on or before a date fixed by him, shall prepare the departmental estimates.

(b) Such budget officer shall also prepare, under the direction of the head of the department or establishment, such supplemental and deficiency estimates as may be required for its work.

SEC. 215. The head of each department and establishment shall revise the departmental estimates and submit them to the Bureau on or before September 15 of each year. In case of his failure so to do, the President shall cause to be prepared such estimates and data as are necessary to enable him to include in the Budget estimates and statements in respect to the work of such department or establishment.

SEC. 216. The departmental estimates and any supplemental or deficiency estimates submitted to the Bureau by the head of any department or establishment shall be prepared and submitted in such form, manner, and detail as the President may prescribe.

SEC. 217. For expenses of the establishment and maintenance of the Bureau there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $225,000, to continue available during the fiscal year ending June 30, 1922.

TITLE III—GENERAL ACCOUNTING OFFICE

SEC. 301. There is created an establishment of the Government to be known as the General Accounting Office, which shall be independent of the executive departments and under the control and direction of the Comptroller General of the United States. The offices of Comptroller of the Treasury and Assistant Comptroller of the Treasury are abolished, to take effect July 1, 1921. All other officers and employees of the office of the Comptroller of the Treasury shall become officers and employees in the General Accounting Office at their grades and salaries on July 1, 1921, and all books, records, documents, papers, furniture, office equipment and other property of the office of the Comptroller of the Treasury shall become the property of the General Accounting Office. The Comptroller General is authorized to adopt a seal for the General Accounting Office.

SEC. 302. There shall be in the General Accounting Office a Comptroller General of the United States and an Assistant Comptroller General of the United States, who shall be appointed by the President with the advice and consent of the Senate, and shall receive salaries of $10,000 and $7,500 a year, respectively. The Assistant Comptroller General shall perform such duties as may be assigned to him by the Comptroller General, and during the absence or incapacity of the Comptroller General, or during a vacancy in that office, shall act as Comptroller General.

SEC. 303. Except as hereinafter provided in this section, the Comptroller General and the Assistant Comptroller General shall hold office for fifteen years. The Comptroller General shall not be eligible for reappointment. The Comptroller General or the Assistant Comptroller General may be removed at any time by joint resolution of Congress after notice and hearing, when, in the judgment of Congress, the Comptroller General or Assistant Comptroller General has become permanently incapacitated or has been inefficient, or guilty of neglect of duty, or of malfeasance in office, or of any felony or conduct involving moral turpitude, or for no other cause and in no other manner except by impeachment. Any Comptroller General or Assistant Comptroller General removed in the manner herein provided shall be ineligible for reappointment to that office. When a Comptroller General or Assistant Comptroller General attains the age of seventy years, he shall be retired from his office.

SEC. 304. All powers and duties now conferred or imposed by law upon the Comptroller of the Treasury or the six auditors of the Treasury Department, and the duties of the Division of Bookkeeping and Warrants of the Office of the Secretary of the Treasury relating to keeping the personal ledger accounts of disbursing and collecting officers, shall, so far as not inconsistent with this Act, be vested in and imposed upon the General Accounting Office and be exercised without direction from any other officer. The balances certified by the Comptroller General shall be final and conclusive upon the executive branch of the Government. The revision by the Comptroller General of settlements made by the six auditors shall be discontinued, except as to settlements made before July 1, 1921.

The administrative examination of the accounts and vouchers of the Postal Service now imposed by law upon the Auditor for the Post Office Department shall be performed on and after July 1, 1921, by a bureau in the Post Office Department to be known as the Bureau of Accounts, which is hereby established for that purpose. The Bureau of Accounts shall be under the direction of a Comptroller, who shall be appointed by the President with the advice and consent of the Senate, and shall receive a salary of $5,000 a year. The Comptroller shall perform the administrative duties now performed by the Auditor for the Post Office Department and such other duties in relation thereto as the Postmaster General may direct. The appropriation of $5,000 for the salary of the Auditor for the Post Office Department for the fiscal year 1922 is transferred and made available for the salary of the Comptroller, Bureau of Accounts, Post Office Department. The officers and employees of the Office of the Auditor for the Post Office Department engaged in the administrative examination of accounts shall become officers and employees of the Bureau of Accounts at their grades and salaries on July 1, 1921. The appropriations for salaries and for contingent and miscellaneous expenses and tabulating equipment for such office for the fiscal year 1922, and all books, records, documents, papers, furniture, office equipment, and other property shall be apportioned between, transferred to, and made available for the Bureau of Accounts and the General Accounting Office, respectively, on the basis of duties transferred.

SEC. 305. Section 236 of the Revised Statutes is amended to read as follows:

"SEC. 236. All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office."

SEC. 306. All laws relating generally to the administration of the departments and establishments shall, so far as applicable, govern the General Accounting Office. Copies of any books, records, papers, or documents, and transcripts from the books and proceedings of the General Accounting Office, when certified by the Comptroller General or the Assistant Comptroller General under its seal, shall be admitted as evidence with the same effect as the copies and transcripts referred to in sections 882 and 886 of the Revised Statutes.

SEC. 307. The Comptroller General may provide for the payment of accounts or claims adjusted and settled in the General Accounting Office, through disbursing officers of the several departments and establishments, instead of by warrant.

SEC. 308. The duties now appertaining to the Division of Public Moneys of the Office of the Secretary of the Treasury, so far as they relate to the covering of revenues and repayments into the Treasury, the issue of duplicate checks and warrants, and the certification of outstanding liabilities for payment, shall be performed by the Division of Bookkeeping and Warrants of the Office of the Secretary of the Treasury.

SEC. 309. The Comptroller General shall prescribe the forms, systems, and procedure for administrative appropriation and fund ac-

counting in the several departments and establishments, and for the administrative examination of fiscal officers' accounts and claims against the United States.

SEC. 310. The offices of the six auditors shall be abolished, to take effect July 1, 1921. All other officers and employees of these offices except as otherwise provided herein shall become officers and employees of the General Accounting Office at their grades and salaries on July 1, 1921. All books, records, documents, papers, furniture, office equipment, and other property of these offices, and of the Division of Bookkeeping and Warrants, so far as they relate to the work of such division transferred by section 304, shall become the property of the General Accounting Office. The General Accounting Office shall occupy temporarily the rooms now occupied by the office of the Comptroller of the Treasury and the six auditors.

SEC. 311. (a) The Comptroller General shall appoint, remove, and fix the compensation of such attorneys and other employees in the General Accounting Office as may from time to time be provided for by law.

(b) All such appointments, except to positions carrying a salary at a rate of more than $5,000 a year, shall be made in accordance with the civil-service laws and regulations.

(c) No person appointed by the Comptroller General shall be paid a salary at a rate of more than $6,000 a year, and not more than four persons shall be paid a salary at a rate of more than $5,000 a year.

(d) All officers and employees of the General Accounting Office, whether transferred thereto or appointed by the Comptroller General, shall perform such duties as may be assigned to them by him.

(e) All official acts performed by such officers or employees specially designated therefor by the Comptroller General shall have the same force and effect as though performed by the Comptroller General in person.

(f) The Comptroller General shall make such rules and regulations as may be necessary for carrying on the work of the General Accounting Office, including rules and regulations concerning the admission of attorneys to practice before such office.

SEC. 312. (a) The Comptroller General shall investigate, at the seat of government or elsewhere, all matters relating to the receipt, disbursement, and application of public funds, and shall make to the President when requested by him, and to Congress at the beginning of each regular session, a report in writing of the work of the General Accounting Office, containing recommendations concerning the legislation he may deem necessary to facilitate the prompt and accurate rendition and settlement of accounts and concerning such other matters relating to the receipt, disbursement, and application of public funds as he may think advisable. In such regular report, or in special reports at any time when Congress is in session, he shall make recommendations looking to greater economy or efficiency in public expenditures.

(b) He shall make such investigations and reports as shall be ordered by either House of Congress or by any committee of either House having jurisdiction over revenue, appropriations, or expenditures. The Comptroller General shall also, at the request of any

such committee, direct assistants from his office to furnish the committee such aid and information as it may request.

(c) The Comptroller General shall specially report to Congress every expenditure or contract made by any department or establishment in any year in violation of law.

(d) He shall submit to Congress reports upon the adequacy and effectiveness of the administrative examination of accounts and claims in the respective departments and establishments and upon the adequacy and effectiveness of departmental inspection of the offices and accounts of fiscal officers.

(e) He shall furnish such information relating to expenditures and accounting to the Bureau of the Budget as it may request from time to time.

SEC. 313. All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the Comptroller General, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment. The authority contained in this section shall not be applicable to expenditures made under the provisions of section 291 of the Revised Statutes.

SEC. 314. The Civil Service Commission shall establish an eligible register for accountants for the General Accounting Office, and the examinations of applicants for entrance upon such register shall be based upon questions approved by the Comptroller General.

SEC. 315. (a) All appropriations for the fiscal year ending June 30, 1922, for the offices of the Comptroller of the Treasury and the six auditors, are transferred to and made available for the General Accounting Office, except as otherwise provided herein.

(b) During such fiscal year the Comptroller General, within the limit of the total appropriations available for the General Accounting Office, may make such changes in the number and compensation of officers and employees appointed by him or transferred to the General Accounting Office under this Act as may be necessary.

(c) There shall also be transferred to the General Accounting Office such portions of the appropriations for rent and contingent and miscellaneous expenses, including allotments for printing and binding, made for the Treasury Department for the fiscal year ending June 30, 1922, as are equal to the amounts expended from similar appropriations during the fiscal year ending June 30, 1921, by the Treasury Department for the offices of the Comptroller of the Treasury and the six auditors.

(d) During the fiscal year ending June 30, 1922, the appropriations and portions of appropriations referred to in this section shall be available for salaries and expenses of the General Accounting Office, including payment for rent in the District of Columbia, traveling expenses, the purchase and exchange of law books, books of reference, and for all necessary miscellaneous and contingent expenses.

SEC. 316. The General Accounting Office and the Bureau of Accounts shall not be construed to be a bureau or office created since January 1, 1916, so as to deprive employees therein of the additional compensation allowed civilian employees under the provisions of section 6 of the Legislative, Executive, and Judicial Appropriation Act for the fiscal year ending June 30, 1922, if otherwise entitled thereto.

SEC. 317. The provisions of law prohibiting the transfer of employees of executive departments and independent establishments until after service of three years shall not apply during the fiscal year ending June 30, 1922, to the transfer of employees to the General Accounting Office.

SEC. 318. This Act shall take effect upon its approval by the President: *Provided,* That sections 301 to 317, inclusive, relating to the General Accounting Office and the Bureau of Accounts, shall take effect July 1, 1921.

Approved, June 10, 1921.

The Budget and Accounting Procedures Act of 1950

(Chapter 946, 64 Stat. 832)

AN ACT To authorize the President to determine the form of the national budget and of departmental estimates, to modernize and simplify governmental accounting and auditing methods and procedures, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Budget and Accounting Procedures Act of 1950".

TITLE I—BUDGETING AND ACCOUNTING

PART I—BUDGETING

SEC. 101. Section 2 of the Budget and Accounting Procedures Act, 1921 (42 Stat. 20), is amended by adding at the end thereof the following:

"The term 'appropriations' includes, in appropriate context, funds and authorizations to create obligations by contract in advance of appropriations, or any other authority making funds available for obligation or expenditure."

SEC. 102 (a) Section 201 of such Act is amended to read as follows:

"SEC. 201. The President shall transmit to Congress during his first fifteen days of each regular session, the Budget, which shall set forth Budget messages, summary data and text, and supporting detail. The Budget shall set forth in such form and detail as the President may determine—-

"(a) functions and activities of the Government;

"(b) any other desirable classification of data;

"(c) a reconciliation of the summary data on expenditures with proposed appropriations;

"(d) estimated expenditures and proposed appropriations necessary in his judgement for the support of the Government for the ensuing fiscal year, except that estimated expenditures and proposed appropriations for such year for the legislative branch of the Government and the Supreme Court of the United Stated shall be transmitted to the President on or before October 15 of each year and shall be included by him in the Budget without revision;

"(e) estimated receipts of the Government during the ensuing fiscal year, under (1) laws existing at the time the Budget is transmitted and also (2) under the revenue proposals, if any, contained in the Budget;

"(f) actual appropriations, expenditures, and receipts of the Government during the last completed fiscal year;

"(g) estimated expenditures and receipts, and actual or proposed appropriations of the Government during the fiscal year in progress;

"(h) balanced statements of (1) the condition of the Treasury at the end of the last completed fiscal year, (2) the estimated condition of the Treasury at the end of the fiscal year in progress, and (3) the estimated condition of the Treasury at the end of the ensuing fiscal year if the financial proposals contained in the Budget are adopted;

"(i) all essential facts regarding the bonded and other indebtedness of the Government; and

"(j) such other financial statements and data as is in his opinion are necessary or desirable in order to make known in all practicable detail the financial condition of the Government."

(b) Section 203 of such Act is amended to read as follows:

"SEC. 203. (a) The President from time to time may transmit to Congress such proposed supplemental or deficiency appropriations as in his judgement (1) are necessary on account of laws enacted after the transmission of the Budget, or (2) are other wise in the public interest. He shall accompany such proposals with a statement of the reasons therefor, including the reasons for their omission from the Budget.

"(b) Whenever such proposed supplemental or deficiency appropriations reach an aggregate, which if they had been contained in the Budget, would have required the President to make a recommendation under subsection (a) of section 202, he shall thereupon make such recommendation."

(c) Section 204 of such Act is amended to read as follows:

"SEC. 204. (a) Except as other wise provided in this Act, the contents, order, and arrangement of then proposed appropriations and the statement of expenditures and estimated expenditures contained in the Budget or transmitted under section 203, and notes and other data submitted therewith, shall conform to requirements prescribed by the President.

"(b) The Budget, and statements furnished with any proposed supplemental or deficiency appropriations, shall be accompanied by information as to personal services and other objects of expenditure in the same manner and form as in the Budget for the fiscal year 1950: *Provided*, That this requirement may be waived, or modified, either generally or in specific cases, by joint action of the committees of Congress having jurisdiction over appropriation: *And provided further,* That nothing in this Act shall be construed to limit the authority of committees of Congress to request and receive such information in such form as they may desire in consideration of and action upon budget estimates."

(d) Section 205 of Such Act is amended to read as follows:

"Sec. 205. Whenever any basic change is made in the form of the Budget, the President, in addition top the Budget, shall transmit Congress such explanatory notes and tables as may be necessary to show where the various items embraced in the budget of the prior year are contained in the new Budget."

(e) The last sentence of section 207 of such Act is amended to read as follows: "The Bureau, under such rules and regulations as the President may prescribe, shall prepare the Budget, and any proposed supplemental or deficiency appropriations, and to this end shall have authority to assemble, correlate, revise, reduce, or in-

crease the requests for appropriations of the several departments or establishments."

(f) Section 214 of such Act is amended to read as follows:

"SEC. 214. The head of each department and establishment shall prepare or cause to be prepared in each year his requests for regular, supplemental, or deficiency appropriations."

(g) Section 215 of such Act is amended to read as follows:

"SEC. 215. The head of each department and establishment shall submit his requests for appropriations to the Bureau on or before a date which the President shall determine. In case of his failure to do so, the President shall cause such requests to be prepared as are necessary to enable him to include such requests with the Budget in respect to the work of such department or establishment."

(h) Section 216 of such Act is amended to read as follow:

"SEC. 216. Requests for regular, supplemental, or deficiency appropriations which are submitted to the Bureau by the head of any department or establishment shall be prepared and submitted as the President may determine in accordance with the provisions of section 201."

GOVERNMENT STATISTICAL ACTIVITIES

SEC. 103. The President, through the Director of the Bureau of the Budget, is authorized and directed to develop programs and to issue regulations and orders for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the various agencies in the executive branch of the Government. Such regulations and orders shall be adhered to by such agencies.

IMPROVED ADMINISTRATION OF EXECUTIVE AGENCIES

SEC. 104. The President, through the Director of the Bureau of the Budget, is authorized and directed to evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government with a view to efficient and economical service.

BUSINESS-TYPE BUDGETS

SEC. 105. The first two sentences of section 102 of the Government Corporation Control Act of 1945 (59 Stat. 597), are amended to read as follows: "Each wholly owned Government corporation shall cause to be prepared annually a business-type budget which shall be submitted to the Bureau of the Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented."

PART II—-ACCOUNTING AND AUDITING

SHORT TITLE

SEC. 110. This part may be cited as the "Accounting and Auditing Act of 1950."

DECLARATION OF POLICY

SEC. 111. It is the policy of the Congress in enacting this part that—

(a) The accounting of the Government provide full disclosure of the results of financial operations, adequate financial information needed in the management of operations and the formulation and execution of the Budget, and effective control over income, expenditures, funds, property, and other assets.

(b) Full consideration be given to the needs and responsibilities of both the legislative and executive branches in the establishment of accounting and reporting systems and requirements.

(c) The maintenance of accounting systems and the producing of financial reports with respect to the operations of executive agencies, including central facilities for bringing together and disclosing information on the results of the financial operations of the Government as a whole, be the responsibility of the executive branch.

(d) The auditing for the Government, conducted by the Comptroller General of the United States as an agent of the Congress be directed at determining the extent to which accounting and related financial reporting fulfill the purposes specified, financial transactions have been consummated in accordance with laws, regulations or other legal requirements, and adequate internal financial control over operations is exercised, and afford an effective basis for the settlement of accounts of accountable officers.

(e) Emphasis be placed on effecting orderly improvements resulting in simplified and more effective accounting, financial reporting, budgeting, and auditing requirements and procedures and on the elimination of those which involve duplication or which do not serve a purpose commensurate with the costs involved.

(f) The Comptroller General of the United States, the Secretary of the Treasury, and the Director of the Bureau of the Budget conduct a continuous program for the improvement of accounting and financial reporting in the Government.

ACCOUNTING AND REPORTING PROVISIONS

SEC. 112. (a) the Comptroller General of the United States, after consulting the Secretary of the Treasury and the Director of the Bureau of the Budget concerning their accounting, financial reporting, and budgetary needs, and considering the needs of the other executive agencies, shall prescribe the principles, standards, and related requirements for accounting to be observed by each executive agency, including requirements for suitable integration between the accounting processes of each executive agency and the accounting of the Treasury Department. Requirements prescribed by the Comptroller General shall be designed to permit the executive agencies to carry out their responsibilities under section 113 of this part, while providing a basis for integrated accounting for the Government, full disclosure of the results of the financial operations of each executive agency and the Government as a whole, and financial information and control necessary to enable the Congress and the president to discharge their respective responsibilities. The Comptroller General shall continue to exercise the authority vested in him by section 205(b) of the Federal Property and

Administrative Services Act of 1949 (63 Stat. 389) and, to the extent he deems necessary, the authority vested in him by section 309 of the Budget and Accounting Act, 1921 (42 Stat. 25). Any such exercise of authority shall be consistent with the provisions of this section.

(b) The General Accounting Office shall cooperate with the executive agencies in the development of their accounting systems, including the Treasury Department, in the development and establishment of the system of central accounting and reporting required by section 114 of this part. Such accounting systems shall be approved by the Comptroller General when deemed by him to be adequate and in conformity with the principles, standards, and related requirements prescribed by him.

(c) The General Accounting Office shall from time to time review the accounting systems of the executive agencies. The results of such reviews shall be available to the heads of the executive agencies concerned, to the Secretary of the Treasury, and the Director of the Bureau of the Budget, and the Comptroller General shall make such reports thereon to the Congress as he deems proper.

SEC. 113. (a) The head of each executive agency shall establish and maintain systems of accounting and internal control designed to provide—

(1) full disclosure of the financial results of the agency's activities;

(2) adequate financial information needed for the agency's management purposes;

(3) effective control over and accountability for all funds, property, and other assets for which the agency is responsible, including appropriate internal audit;

(4) reliable accounting results to serve as the basis for preparation and support of the agency's budget requests, for controlling the execution of its budget, and for providing financial information required by the Bureau of the Budget under section 213 of the Budget and Accounting Act, 1921 (42 Stat. 23);

(5) suitable integration of the accounting of the agency with the accounting of the Treasury Department in connection with the central accounting and reporting responsibilities imposed on the Secretary of the Treasury by section 114 of this part.

(b) The accounting systems of executive agencies shall conform to the principles, standards, and related requirements prescribed by the Comptroller General pursuant to section 112(a) of this part.

SEC. 114. (a) The Secretary of the Treasury shall prepare such reports for the information of the President, the Congress, and the public as will present the results of the financial operations of the Government: *Provided*, That there shall be included such financial data as the director of the Bureau of the Budget may require in connection with the preparation of the Budget or for other purposes of the Bureau. Each executive agency shall furnish the Secretary of the Treasury such reports and information relating to its financial condition and operations as the Secretary, by rules and regulations, may require for the effective performance of his responsibilities under this section.

(b) The Secretary of the Treasury is authorized to establish the facilities necessary to produce the financial reports requires by sub-

section (a) of this section. The Secretary is further authorized to reorganize the accounting functions and install, revise, or eliminate accounting procedures and financial reports of the Treasury Department in order to develop effective and coordinated systems of accounting and financial reporting in the several bureaus and offices of the Department with such concentration of accounting and reporting as is necessary to accomplish integration of accounting results for the activities of the Department and provide the operating center for the consolidation of accounting results of other executive agencies with those of the Department. The authority vested in and the duties imposed upon the Department by sections 10, 15, and 22 of the Act entitled "An act making appropriations for the legislative, executive, and judicial branches of the Government for the fiscal year ending June thirtieth, eighteen hundred ninety-five, and for other purposes", approved July 31, 1894 (28 Stat.162, 208–210), may be exercised and performed by the Secretary of the Treasury as part of his broader authority and duties under this section and in such a manner as to provide a unified system of central accounting and reporting on the most efficient and useful basis.

(c) The system of central accounting and reporting provided for herein shall be consistent with the principles, standards, and related requirements prescribed by the Comptroller General pursuant to section 112 of this part.

SEC. 115. (a) when the Secretary of the Treasury and the Comptroller General determine that existing procedures can be modified in interest of simplification, improvement, or economy, with sufficient safeguards over the control and accounting for the public funds, they may issue joint regulations providing for the waiving, in whole or in part, of the requirements of existing law that—

(1) warrants be issued and countersigned in connection with the receipt, retention, and disbursement of public moneys and trust funds; and

(2) funds be requisitioned, and advanced to accountable officers under such separate appropriation head or otherwise.

(b) Such regulations may further provide for the payment of vouchers by authorized disbursing officers by means of checks issued against the general account of the Treasurer of the United States: *Provided*, That in such case the regulations shall provide for appropriate action in the event of delinquency by disbursing in the rendition of their accounts of for, other reasons arising out of the condition of the officers' accounts, including under necessary circumstances, the suspension or withdrawal of authority to disburse.

SEC. 116. The Comptroller General is authorized to discontinue the maintenance in the General Accounting Office of appropriation, expenditure, limitation, receipt, and personal accounts when in his opinion the accounting systems and internal control of the executive, legislative, and judicial agencies are sufficient to enable him to perform properly the functions to which such accounts relate.

AUDITING PROVISIONS

SEC. 117. (a) Except as otherwise specifically provided by law, the financial transactions of each executive, legislative, and judicial

agency, including but not limited to the accounts of accountable officers, shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of auditing procedures to be followed and the extent of examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of the respective agencies.

(b) whenever the Comptroller General determines that he audit shall be conducted at the place or places where the accounts and other records of an executive agency are normally kept, he may require any executive agency to retain in whole or in part accounts of accountable officers, contracts, vouchers, and other documents, which are required under existing law to be submitted to the General Accounting Office, under such conditions and for such period not exceeding ten years as he may specify, unless a longer period is agreed upon with the executive agency: *Provided*, That under agreements between the Comptroller General and legislative and judicial agencies the provisions of this sentence may be extended to the accounts and records of such agencies.

GENERAL PROVISIONS

SEC. 118. As used in this part, the term "executive agency" means any executive department or independent establishment in the executive branch of the Government but

(a) except for the purposes of sections 114, 116, and 119 shall not include any Government corporation or agency subject to the Government Corporation Control Act (59 Stat. 597), and

(b) except for the purposes of sections 111, 114, and 116 shall not include the Post Office Department.

SEC. 119. The head of each executive agency is authorized to designate then place or places, at the seat of government or elsewhere, at which the administrative examination of fiscal officers' accounts will be performed, and with the concurrence of the Comptroller General to waive the administrative examination in whole or in part: *Provided*, That the same authority is hereby conferred upon the officers responsible for the administrative examination of accounts for legislative and judicial agencies.

TITLE II—APPROPRIATIONS

AUTHORIZATION FOR APPROPRIATIONS

SEC. 201. No requests for legislation, which, if enacted would authorize subsequent appropriations for a department or establishment the executive branch of the Government, shall be transmitted to the Bureau of the Budget, to the President, or to the Congress by such department or establishment, or by any organization unit thereof, without the prior approval of the head of such department or establishment.

ADJUSTMENT OF APPROPRIATION FOR REORGANIZATION

SEC. 202. (a) When under authority of law a function or an activity is transferred or assigned from one agency within any department or establishment to another agency in the same department or establishment, the balance of appropriations which are determined by the head of such department or establishment to be available, and necessary to finance or discharge the function or activity so transferred or assigned may, with the approval of the President, be transferred to, and be available for use by, the agency to which said function or activity is transferred or assigned for any purpose for which said funds were originally available. Balances so transferred shall be credited to any applicable existing appropriation account or accounts, or to any new appropriation account or accounts, which are hereby authorized to be established, and shall be merged with funds in the applicable existing or newly established appropriation account or accounts and thereafter accounted for as one fund.

(b) When under authority of law a function or activity is transferred or assigned from one department or establishment to another department or establishment, the balance of appropriations which are determined by the President to be available and necessary to finance or discharge the function or activity so transferred or assigned, shall be transferred to and be available for use by the department or establishment to which said function or activity is transferred or assigned for any purpose for which said funds were originally available. Balances so transferred shall be credited to any applicable existing appropriation account or accounts, or to any new appropriation account or accounts, which are hereby authorized to be established, and shall be merged with funds in the applicable existing or newly established appropriation account or accounts and thereafter accounted for as one fund.

TITLE III—REPEALS AND SAVINGS PROVISIONS

REPEALS

SEC. 301. The following Acts and parts of Acts are hereby repealed:

(1) Section 10 of the Act of August 1, 1914 (38 Stat. 680; U.S.C., title 31, sec. 582).

(2) So much of section 4 of the Act of June 20, 1874 (18 Stat. 109); U.S.C., title 31 sec. 583 (1)), as reads: "; and hereafter the Secretary of the Treasury shall annually submit to Congress detailed estimates of appropriations required for said expenses;".

(3) The last proviso in the first paragraph under the heading "Judgements; United States Courts" of the Act of April 27, 1904 (33 Stat. 422; U.S.C., title 31, sec 583 (2)).

(4) The last sentence of section 5 of the Act of August 5, 1882 (22 Stat. 256; U.S.C., title 31, sec. 583(3)).

(5) So much of the matter appearing under the heading "Mints and Assay Offices" of the Act of March 4, 1911 (36 Stat. 1292; U.S.C., title 31, sec. 583 (4)), as reads: ", and the Secretary of the Treasury shall, for the fiscal year nineteen hun-

dred and thirteen, and annually thereafter, submit to Congress in the regular book of estimates, detailed estimates for the expenses of this Service".

(6) So much of the matter appearing under the heading "Treasury Department" in the Act of August 26, 1912 (37 Stat. 596; U.S.C., title 31, sec. 583 (5)), as reads: "*Provided further,* That estimates hereunder shall be submitted in detail for the fiscal year 1914, and annually thereafter".

(7) The last sentence of the paragraph under the heading "Federal Farm Loan Board" of the Act of September 8, 1916 (U.S.C., title 31 sec. 583 (7)), appearing on page 803 of volume 39 of the Statutes at Large; and the third and last paragraph under the heading "Federal Farm Loan Bureau" of the Act of March 3, 1917 (U.S.C. title 31, sec. 583 (7)), appearing on page 1084 of volume 39 of the Statutes at Large.

(8) The last sentence on page 48 of volume 30 of the Statutes at Large, in the Act of June 4, 1897 (U.S.C., title 31, sec. 583 (8)).

(9) The first sentence of section 6 of the Act of March 3, 1919 (40 Stat. 1309; U.S.C., title 31, sec. 583 (10)).

(10) The last proviso under the heading "Office of the Chief Signal Officer" of the Act of March 2, 1907 (34 Stat. 11539; U.S.C. title 31, sec. 583 (11)).

(11) The sixth full paragraph appearing on page 648 of volume 29 of the Statutes at Large in the Act of March 3, 1897 (U.S.C., title 31, sec. 583 (13)).

(12) So much of the matter following the heading "Bureau of Mines" in the Act of March 3, 1915 (38 Stat. 858; U.S.C., title 31, sec. 583 (14)) as reads: ", estimates shall be submitted specifically for all personal services required permanently and entirely in the Bureau of Mines at Washington, District of Columbia, and previously paid from lump-sum or general appropriations;".

(13) The proviso at the end of the fourth paragraph on page 312 of volume 37 of the Statutes at Large, in the Act of August 17, 1912 (U.S.C., title, sec. 583 (15)).

(14) The third paragraph appearing on page 1082 of volume 32 of the Statutes at Large, in the Act of March 3, 1903 (U.S.C., title 31, sec. 583 (16)).

(15) So much of section 12 of the Act of June 26, 1906 (34 Stat. 480; U.S.C., title 31, sec. 583 (18)), as reads: "and he shall annually submit to Congress estimates to cover the cost of the establishment and maintenance of fish hatcheries in Alaska, the salaries and actual traveling expenses of such officials, and for such other expenditure as may be necessary to carry out the provisions of this Act".

(16) The proviso at the end of the first full paragraph on page 456 of volume 32 of the Statutes at Large, in the Act of June 28, 1902 (U.S.C., title 31, sec. 583 (20)).

(17) The second full paragraph on page 841 of volume 38 of the Statutes at Large, in the Act of March 3, 1915 (U.S.C., title 31, sec. 583 (21)).

(18) The fourth full paragraph on page 2 of volume 38 of the Statutes at Large, in the Act of May 1, 1913 (U.S.C., title 31, sec. 583 (22)).

(19) The proviso at the end of the second paragraph under the heading "Bureau of Immigration and Naturalization" of the Act of March 4, 1907 (34 Stat. 1329, 1330; U.S.C., title 31, sec. 583 (23)).

(20) The second full paragraph on page 374 of volume 35 of the Statutes at Large, in the Act of May 27, 1908 (U.S.C., title 31 sec. 583 (25)).

(21) So much of the last paragraph on page 396 of volume 37 of the Statutes at Large, in the Act of August 23, 1912 (U.S.C., title 31, sec. 583 (26)), as reads: "For the fiscal year nineteen hundred and fourteen and annually thereafter estimates in detail shall be submitted for all personal services required in the Indian Office,".

(22) The proviso at the end of the first full paragraph on page 646 of volume 41 of the Statutes at Large, in the Act of May 29, 1920 (U.S.C., title 31, sec. 584).

(23) Section 3660 of the Revised Statutes (U.S.C., title 31, sec. 585).

(24) Section 4 of the Act of June 22, 1906 (34 Stat. 448; U.S.C., title 31, sec. 586).

(25) Section 4 of the Act of March 4, 1909 (35 Stat. 907; U.S.C., title 31, sec. 587).

(26) Section 2 of the Act of June 30, 1906 (34 Stat. 762; U.S.C., title 31, sec. 588); and the proviso in the first paragraph on page 1367 of volume 34 of the Statutes at Large, in the Act of March 4, 1907 (U.S.C., title 31, sec. 588).

(27) Section 3661, as amended, of the Revised Statutes (U.S.C., title 31, sec. 589).

(28) So much of the first paragraph on page 255 of volume 24 of the Statutes at Large, in the Act of August 4, 1886 (U.S.C., title 31, sec. 590), as reads: ": *Provided further*, That all printing and engraving for the Geological Survey, the Coast and Geodetic Survey, the Hydrographic Office of the Navy Department, and the Signal Service shall hereafter be estimated for separately and in detail, and appropriated for separately for each of said bureaus".

(29) Section 3662 of the Revised Statutes (U.S.C., title 31, sec. 591).

(30) Section 3663 of the Revised Statutes, as amended (U.S.C. title 31, sec. 594).

(31) Section 3664 of the Revised Statutes (U.S.C. title 31, sec. 597).

(32) Section 3665 of the Revised Statutes (U.S.C. title 31, sec. 598).

(33) The second paragraph under the heading "Revenue-Cutter Service" in the Act of March 2, 1889 (25 Stat. 907; U.S.C., title 31, sec. 600).

(34) So much of the second full paragraph on page 512 of volume 24 of the Statutes at Large, in the Act of March 3, 1887 (U.S.C., title 31, sec. 601), as reads: "That the Secretary of the Treasury shall for the fiscal year eighteen hundred and eighty-

seven, and for each fiscal year thereafter in the annual estimates, report to Congress the number of persons employed outside the District of Columbia, as superintendents, clerks, watchmen and other wise, and paid from appropriations for the construction of public buildings showing where said persons are employed, in what capacity, the length of time and at what rate of compensation.".

(35) So much of the sixth full paragraph on page 374 of volume 26 of the Statutes at Large, in the Act of August 30, 1980 (U.S.C. title 31, sec. 601) as reads: "; and hereafter the Secretary of the Treasury shall annually report to Congress in the book of estimates a statement of the expenditure of the appropriation for 'repairs and preservation of public buildings' which shall show the amount expended on each public building and the number of persons employed and paid salaries from such appropriation".

(36) So much of section 1317 of the Revenue Act of 1921 (42 Stat. 314; U.S.C., title 31, sec. 602) as reads: "; and the Secretary of the Treasury shall submit for the fiscal year 1921, and annually thereafter, an estimate of appropriations to refund and pay back duties or taxes erroneously, or illegally assessed or collected under the internal-revenue laws, and to pay judgements, including interests and costs, rendered for taxes or penalties erroneously or illegally assessed or collected under the internal-revenue laws".

(37) The first paragraph on page 133 of volume 22 of the Statutes at Large, in the Act of July 1, 1882 (U.S.C., title 31, sec. 603).

(38) The eighth paragraph under the heading "Foreign Intercourse" of the Act of May 3, 1905 (33 Stat. 1214; U.S.C., title 31, sec. 603).

(39) The last paragraph on page 48 of volume 30 of the Statutes at Large, in the Act of June 4, 1897 (U.S.C., title 31, sec. 604).

(40) The eighth paragraph under the heading "Under the Engineer Department" of the Act of February 13, 1913 (37 Stat. 671; U.S.C., title 31, sec. 605).

(41) The sixth paragraph under the heading "Fortifications in Insular Possessions" of the Act of March 3, 1905 (33 Stat. 847; U.S.C., title 31, sec. 606).

(42) So much of the first section of the Act of August 4, 1886 (24 Stat. 246; U.S.C., title 31, sec. 607), as reads: "the estimates for the Army and Navy hospital service shall be submitted as a part of the military establishment".

(43) The first full paragraph on page 117 of volume 31 of the Statutes at Large, in the Act of April 17, 1900 (U.S.C., title 31, sec. 609).

(44) Section 3668 of the Revised Statutes (U.S.C., title 31, sec. 610).

(45) So much of the first paragraph on page 357 of volume 20 of the Statutes at Large, in the Act of March 3, 1879 (U.S.C., title 31, sec. 611), as reads: ": *Provided* That hereafter, in making this estimates for railway mail service the Postmaster General shall separate the estimate for postal-car serv-

ice from the general estimates; and in case any increase of diminution of service by postal cars shall be made by him, the reasons therefor shall be given in his annual report next succeeding such increase or diminution".

(46) So much of the first paragraph under the heading "United States Geological Survey" in the Act of March 3, 1887 (24 Stat. 527; U.S.C., title 31, sec. 612), as reads: "; and hereafter the estimates for the Geological Survey shall be itemized".

(47) The first paragraph on page 455 of volume 32 of the Statutes at Large, in the Act of June 28, 1902 (U.S.C., title 31, sec. 612).

(48) Section 4 of the Act of August 15, 1876 (19 Stat. 200; U.S.C., title 31, sec. 613).

(49) The fourth paragraph of section 26 of the Act of June 31, 1913 (38 Stat. 103; U.S.C., title 31, sec. 613).

(50) The eighth full paragraph on page 1421 of volume 36 of the Statutes at Large, in the Act of March 4, 1911 (U.S.C., title 31, sec. 614).

(51) The eighth full paragraph on page 1206 of volume 33 of the Statutes at Large, in the Act of March 3, 1905 (U.S.C., title 31, sec. 615).

(52) The fourth full paragraph under the heading "Government in the Territories" of the Act of July 16, 1914 (38 Stat. 479; U.S.C., title 31, sec. 616).

(53) The first full paragraph on page 492 of volume 39 of the Statutes at Large, in the Act of August 11, 1916 (U.S.C., title 31, sec. 617).

(54) The proviso in the first paragraph under the heading "Rent in the District of Columbia" of the Act of March 4, 1915 (38 Stat.1108; U.S.C., title 31 sec. 617).

(55) The seventh paragraph on page 433 of volume 32 of the Statutes at Large, in the Act of June 28, 1902 (U.S.C., title 31 sec. 618).

(56) The ninth full paragraph on page 755 of volume 36 of the Statutes at Large, in the Act of June 25, 1910 (U.S.C., title 31 sec. 618).

(57) The fourth full paragraph on page 362 of volume 27 of the Statutes at Large, in the Act of August 5, 1892 (U.S.C., title 31, sec. 619).

(58) The first full paragraph on page 764 of volume 36 of the Statutes at Large, in the Act of June 25, 1910 (U.S.C., title 31, sec. 620).

(59) Section 6 of the Act of August 1, 1914 (38 Stat. 679; U.S.C., title 31, sec. 621).

(60) The last full sentence in the first paragraph on page 254 of volume 23 of the Statutes at Large, in the Act of July 7, 1884 (U.S.C., title 31, sec. 622).

(61) Section 5 of the Act of June 30, 1906 (34 Stat. 763; U.S.C., title 31, sec. 626).

(62) The proviso at the end of the first paragraph on page 579 of volume 37 of the Statutes at Large, in the Act of August 24, 1912 (U.S.C., title 31, sec. 626).

(63) Section 7, as amended, of the Act of August 26, 1912 (37 Stat. 626; 37 Stat. 790; U.S.C., title 31, sec. 629).

(64) The fourth full paragraph on page 854 of volume 37 of the Statute at Large, in the Act of March 4, 1913 (U.S.C., title 31, sec. 630).

(65) The proviso at the end of the seventh paragraph on page 1030 of volume 31 of the Statutes at Large, in the Act of March 3, 1901 (U.S.C., title 31, sec. 633).

(66) The second paragraph under the heading "Contingent, Bureau of Ordnance" of the Act of July 12, 1921 (42 Stat. 128; U.S.C., title 31, sec. 636), down through the first proviso therein.

(67) So much of the third paragraph under the heading "Contingent Expenses, Navy Department" of the Act of June 22, 1906 (34 Stat. 427; U.S.C., title 31, sec. 637), as reads: "and hereafter it shall not be lawful to expend, for any of the offices or bureaus of the Navy Department at Washington, any sum out of appropriations made for the naval establishment for any of the purposes mentioned or authorized in the said foregoing paragraph".

(68) So much of the paragraph under the heading "Increase of the Navy, Equipment" of the Act of March 3, 1915 (38 Stat. 952; U.S.C., title 31, sec. 348) as reads: "and beginning with July first, nineteen hundred and fifteen, equipment outfits shall be charged to appropriation 'Increase of the Navy, Construction and Machinery'".

(69) The two proviso in the paragraph under the heading "Fuel and Transportation" of the Act of March 3, 1915 (38 Stat. 944; U.S.C., title 31, sec. 649).

(70) The proviso in the tenth paragraph on page 236 of volume 28 of the Statutes at Large, in the Act of August 6, 1894 (U.S.C., title 31, sec. 650).

(71) The fourth full paragraph on page 1175 of volume 34 of the Statutes as Large, in the Act of March 2, 1907 (U.S.C., title 31, sec. 655).

(72) So much of the first full paragraph on page 1391 of volume 42 of the Statutes at Large, in the Act of March 2, 1923 (U.S.C., title 31, sec. 656), as reads: "and the Budget estimates for each of such appropriations shall hereafter carry separately the amounts required for such transportation costs".

(73) The proviso in the seventh full paragraph on page 520 of volume 32 of the Statutes at Large, in the Act of June 30, 1902 (U.S.C., title 31, sec. 657).

(74) The proviso in lines 2 through 8 on page 710 of volume 36 of the Statutes at Large, in the Act of June 25, 1910 (U.S.C., title 31, sec. 664).

(75) Section 3682 of the Revised Statutes (U.S.C., title 31, sec. 674).

(76) Section 3683 of the Revised Statutes (U.S.C., title 31, sec. 675).

(77) The second full paragraph on page 1303 of volume 41 of the Statutes at Large, in the Act of March 3, 1921 (U.S.C., title 31, sec. 676).

(78) The proviso in lines 7 though 17 on page 203 of volume 21 of the Statutes at Large, in the Act of June 19, 1878 (U.S.C., title 31, sec. 677).

(79) Section 3684 of the Revised Statutes (U.S.C., title 31, sec. 681).

(80) Section 6 of the Act of May 30, 1908 (U.S.C., title 31, sec. 683).

(81) So much of the paragraph under the heading "Pay of Assistant Custodians and Janitors" on pages 1153 and 1154 of volume 31 of the Statutes at Large, in the Act of March 3, 1901 (U.S.C., title 31, sec. 684), as reads: ", and hereafter no other fund appropriated shall be used for this service".

(82) The second paragraph under the heading "United States Commerce Court" of the Act of March 4, 1911 (36 Stat; U.S.C., title 31, sec. 687).

(83) Section 26 of the Act of June 30, 1913 (38 Stat. 103, U.S.C., title 31, sec. 688).

(84) Section 400 of the Second Deficiency Appropriation Act, 1947 (U.S.C., title 31, sec. 694).

(85) Section 607 of the Act of June 30, 1945, as amended (59 Stat. 304; U.S.C., title 5, sec. 947).

(86) Section 3 of the Act of March 3, 1875, as amended (18 Stat. 370; U.S.C., title 31, sec. 624).

(87) So much of the Act of March 26, 1934, as amended (48 Stat. 466; U.S.C., title 5, sec. 118c), as reads: "with budget estimates".

(88) So much of the paragraph under the heading "Department of State" in the Act of August 5, 1909 (36 Stat. 119; U.S.C., title 5, sec. 157), as reads: "and estimates for further appropriations hereunder shall include in detail salaries for all persons to be employed and paid in the Department of State at Washington, District of Columbia".

(89) The last proviso under the head "Working Capital Fund" in the Act of July 12, 1943 (57 Stat. 393; U.S.C., title 5, sec. 558a).

(90) So much of section 17 of the Act of May 22, 1920, as amended (41 Stat. 620; U.S.C., title 5, sec. 730), as reads: "annually to the Bureau of the Budget".

(92) The last sentence of Section 35 of the Act of September 7, 1916, as amended (39 Stat. 749; U.S.C., title 5, sec. 785).

(93) So much of section 1 of the Act of October 1, 1980 (26 Stat. 653; U.S.C., title 10, sec. 214), as reads: "and the Signal Corps of the Army shall remain a part of the Military Establishment under the direction of the Secretary of War, and all estimates for its support shall be included with other estimates for the support of the Military Establishment".

(94) The last proviso of section 4 of the Act of March 12, 1926 (44 Stat. 206; U.S.C., title 10, sec. 1597).

(95) So much of section 1 of the Act of June 12, 1917, as amended (40 Stat. 153; U.S.C., title 16, sec. 452) as reads: "and the Secretary of the Interior is directed to submit, for the fiscal year nineteen hundred and nineteen and annually thereafter, estimates of the amounts required for the care, maintenance, and development of the said parks."

(96) So much of section 1 of the Act of July 24, 1876, as amended (19 Stat. 99; U.S.C., title 24, sec. 278), as requires estimates for the care and maintenance of the national military

cemeteries to be submitted annually by the Director of the National Park Service.

(97) So much of section 1 of the Act of January 24, 1923 (42 Stat. 1208; U.S.C., title 31, sec. 12), as reads: "The aggregate of all estimates of appropriations from the 'reclamation fund' contained in the Budget for any fiscal year shall be included in the totals of the Budget for that year."

(98) The second paragraph under the heading "Pay, Miscellaneous" of the Act of March 3, 1909 (35 Stat. 754; U.S.C., title 31 sec. 609a).

(99) The third paragraph under the heading "Office of the Fourth Assistant Postmaster General" of the Act of June 9, 1896 (29 Stat. 316; U.S.C., title 31, sec. 610a).

(100) The last proviso under the heading "National Home for Disabled Volunteer Soldiers" of the Act of October 2, 1888, as amended (25 Stat. 543; U.S.C., title 31 sec. 719).

(101) Section 119 of the Act of June 3, 1916 (39 Stat. 213; U.S.C., title 32, sec. 25).

(102) So much of the fourth full paragraph on page 558 of volume 39 of the Statutes at Large in the Act of August 29, 1916 (U.S.C., title 34, sec. 504), as reads: "and the Secretary of the Navy shall each year, in the annual estimates, report to Congress the number of persons so employed, their duties, and the amount paid to each".

(103) The last proviso in the third paragraph on page 377 of volume 37 of the Statutes at Large in the Act of August 23, 1912 (U.S.C., title 39, sec. 769).

(104) Section 27 of the Act of January 12, 1895, as amended (28 Stat. 604; U.S.C., title 44 sec. 37).

(105) The eighth full paragraph on page 382 of volume 35 of the Statutes at Large in the Act of May 27, 1908 (U.S.C., title 44, sec. 37).

(106) The last paragraph under the heading "Government in the Territories" in the Act of June 20, 1874 (18 Stat. 99; U.S.C., title 48, sec. 1456).

SAVING PROVISIONS

SEC. 302. (a) The omission of any provision of law from the provisions of law repealed under section 301 shall not be construed as limiting the application of section 201 or 216 of the Budget and Accounting Act, 1921, as amended, or the Powers of the President thereunder, or as evidencing an intent that such provision was not to be superseded by such sections.

(b) Whenever any law authorizes expenditures for a particular object or purpose to be made from an appropriation item referred to in such law by the specific title theretofore used for that appropriation item in the appropriation Act concerned, and thereafter may be made from any corresponding appropriation item.

(c) Except where authority for performance of a function is specifically repealed in section 301, none of the provisions of such section shall be construed as affecting the jurisdiction or responsibility of any agency or officer of the Government over any function or organizational unit referred to in such section.

(d) Existing laws, policies, procedures, and directives pertaining to functions covered by this Act, and not inconsistent herewith or repealed hereby, shall remain in full force and effect unless and until superseded, or except as they may be amended, under the authority of this Act or other appropriate authority.

Approved September 12, 1950.

Parts 1, 2, and 3 of

Legislative Reorganization Act of 1970

Public Law 91–510

(84 Stat. 1140)

AN ACT To improve the operations of the legislative branch of the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, parts, and sections according to the following table of contents, may be cited as the "Legislative Reorganization Act of 1970".[16]

TITLE II—FISCAL CONTROLS

PART 1—BUDGETARY AND FISCAL INFORMATION AND DATA

BUDGETARY AND FISCAL DATA PROCESSING SYSTEM

SEC. 201. The Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General of the United States, shall develop, establish, and maintain, insofar as practicable, for use by all Federal agencies, a standardized information and data processing system for budgetary and fiscal data.

BUDGET STANDARD CLASSIFICATIONS

SEC. 202. (a) The Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General, shall develop, establish, and maintain standard classifications of programs, activities, receipts, and expenditures of Federal agencies in order—

(1) to meet the needs of the various branches of the Government; and

(2) to facilitate the development, establishment, and maintenance of the data processing system under section 201 through the utilization of modern automatic data processing techniques.

The initial classifications under this subsection shall be established on or before December 31, 1971.

(b) The Secretary of the Treasury and the Director of the Office of Management and Budget shall submit a report to the Senate and the House of Representatives on or before September 1 of each year, commencing with 1971, with respect to the performance during the preceding fiscal year of the functions and duties imposed

[16] Only parts 1, 2, and 3, of title II, "Fiscal Controls," of this law are reproduced here.

on them by section 201 and subsection (a) of this section. The reports made under the subsection in 1971 and 1972 shall set forth the progress achieved in the development of classifications under subsection (a) of this section. The reports made in years thereafter shall include information with respect to changes in, and additions to, classifications previously established. Each support report shall include such comments of the Comptroller General as he deems necessary or advisable.

AVAILABILITY TO CONGRESS OF BUDGETARY, FISCAL, AND RELATED DATA

SEC. 203. Upon request of any committee of either House, or of any joint committee of the two Houses, the Secretary of the Treasury and the Director of the Office of Management and Budget shall—

(1) furnish to such committee or joint committee information as to the location and nature of data available in the various and expenditures of such agencies; and

(2) to the extent feasible, prepare for such committee or joint committee summary tables of such data.

ASSISTANCE TO CONGRESS BY GENERAL ACCOUNTING OFFICE

Sec. 204. (a) The Comptroller General shall review and analyze the results of Government programs and activities carried on under existing law, including the making of cost benefits studies, when ordered by either House of Congress, or upon his own initiative, or when requested by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, having jurisdiction over such programs and activities.

(b) The Comptroller General shall have available in the General Accounting Office employees who are expert in analyzing and conducting cost benefit studies of Government programs. Upon request of any committee of either House or any joint committee of the two Houses, the Comptroller General shall assist such committee or joint committee, or the staff of such committee or joint committee—

(1) in analyzing cost benefit studies furnished by any Federal agency to such committee or joint committee; or

(2) in conducting cost benefit studies of programs under the jurisdiction of such committee or joint committee.

POWER AND DUTIES OF COMPTROLLER GENERAL IN CONNECTION WITH BUDGETARY, FISCAL, AND RELATED MATTERS

SEC. 205. (a) The Comptroller General shall establish within the General Accounting Office such office or division, or such offices or divisions, as he considers necessary to carry out the functions and duties imposed on him by the provisions of this title.

(b) The Comptroller General shall include in his annual report to the Congress information with respect to the performance of the functions and duties imposed on him by the provisions of this title.

PRESERVATION OF EXISTING AUTHORITIES AND DUTIES UNDER BUDGET AND ACCOUNTING AND OTHER STATUTES

SEC. 206. Nothing contained in this Act shall be constructed as impairing any authority or responsibility of the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Comptroller General of the United States under the Budget and Accounting Act, 1921, as amended, and the Budget and Accounting Procedures Act of 1950, as amended, or any other statutes.

DEFINITION

SEC. 207. As used in this title, the term "Federal agency" means any department, agency, wholly owned Government corporation, establishment, or instrumentality of the Government of the United States or the government of the District of Columbia.

PART 2—THE BUDGET

SUPPLEMENTAL BUDGET INFORMATION

SEC. 221. (a) Section 201(a) of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 11), is amended—

(1) by striking out the word "and" at the end of subparagraph (10)

(2) by striking out the period at the end of subparagraph (11) and inserting in lieu of the period a semicolon and the word "and"; and

(3) by adding immediately below subparagraph (11) the following new subparagraph:

"(12) with respect to each proposal in the Budget for new or additional legislation which would create or expand any function, activity, or authority, in addition to those functions, activities, and authorities then existing or as then being administered and operated, a tabulation showing—

"(A) the amount proposed in the Budget for appropriation and for expenditure in the ensuring fiscal year on account of such proposal; and

"(B) the estimated appropriation required on account of such proposal in each of the four fiscal years, immediately following that ensuing fiscal year, during which such proposal is to be in effect.".

(b) Section 201 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 11) is amended by striking out the terminated and obsolete subsections (b), (c), (d), (e), and (f) and inserting in lieu thereof the following new subsections:

"(b) The President shall transmit to the Congress, on or before June 1 of each year, beginning with 1972 a supplemental summary of the Budget for the ensuing fiscal year transmitted to the Congress by the President under subsection (a) of this section. Such supplemental summary—

"(1) shall reflect with respect to that ensuing fiscal year—

"(A) all substantial alterations in or reappraisals of estimates of expenditures and receipts, and

"(B) all substantial obligations imposed on that budget after its transmission to the Congress;

"(2) shall contain current information with respect to those matters covered by subparagraph (8) and clauses (2) and (3) of subparagraph (9) of subsection (a) of this section; and

"(3) shall contain such additional information, in summary form, as the President considers necessary or advisable to provide the Congress with a complete and current summary of information with respect to that Budget and the then currently estimated functions, obligations, requirements, and financial condition of the Government for that ensuring fiscal year.

"(c) The President shall transmit to the Congress, on or before June 1 of each year, beginning with 1972, in such form and detail as he may determine—

"(1) summaries of estimated expenditures, for the first four fiscal years following the ensuring fiscal year for which the Budget was transmitted to the Congress by the President under subsection (a) of this section, which will be required under continuing programs which have a legal commitment for future years or are considered mandatory under existing law; and

"(2) summaries of estimated expenditures, in fiscal years following such ensuing fiscal year, of balances carried over from such ensuring fiscal year.".

PART 3—UTILIZATION OF REPORTS AND EMPLOYEES OF GENERAL ACCOUNTING OFFICE

ASSISTANCE BY GENERAL ACCOUNTING OFFICE TO CONGRESSIONAL COMMITTEES IN CONNECTION WITH PROPOSED LEGISLATION AND COMMITTEE REVIEW OF FEDERAL PROGRAMS AND ACTIVITIES

SEC. 231. At the request of any committee of the House of Senate, or of any joint committee of the two Houses, the Comptroller General shall explain to, and discuss with, the committee or joint committee making the request, or the staff of such committee or joint committee, any report made by the General Accounting Office which would assist such committee in connection with—

(1) its consideration of proposed legislation, including requests for appropriations, or

(2) its review of any program, or of any activity of any Federal agency, which is within the jurisdiction of such committee or joint committee.

DELIVERY OF GENERAL ACCOUNTING OFFICE TO CONGRESSIONAL COMMITTEES OF REPORTS TO CONGRESS

SEC. 232. Whenever the General Accounting Office submits any reports to the Congress, the Comptroller General shall deliver copies of such report to—

(1) the Committees on Appropriations of the House and Senate,

(2) the Committees on Government Operations of the House and Senate, and

(3) any other committee of the House or Senate, or any joint committee of the two Houses, which has requested information

on any program or part thereof, or any activity of any Federal agency, which is the subject, in whole or in part, of such report.

FURNISHING TO CONGRESSIONAL COMMITTEES BY GENERAL ACCOUNTING OFFICE OF ITS REPORTS GENERALLY

SEC. 233. At the request of any committee of the House or Senate, or of any joint committee of the two Houses, the Comptroller General shall make available to such committee or joint committee a copy of any report of the General Accounting Office which was not delivered to that committee or joint committee under section 232 of this Act.

FURNISHING TO COMMITTEES AND MEMBERS OF CONGRESS BY GENERAL ACCOUNTING OFFICE OF MONTHLY AND ANNUAL LISTS OF ITS REPORTS; AVAILABILITY OF REPORTS TO COMMITTEES AND MEMBERS ON REQUEST

SEC. 234. The Comptroller General shall prepare, once each calendar month, a list of all reports of the General Accounting Office issued during the immediately preceding calendar month, and, not less than once each calendar year, a cumulative list of all reports of the General Accounting Office issued during the immediately preceding twelve months, and transmit a copy of each such list of reports to each committee, Member of the House or Senate, or the Resident Commissioner, as the case may be, a copy of each report so listed and requested.

ASSIGNMENTS OF EMPLOYEES OF GENERAL ACCOUNTING OFFICE TO DUTY WITH COMMITTEES OF CONGRESS

SEC. 235. (a) Notwithstanding any other provision of law, the Comptroller General may not assign or detail any employee of the General Accounting Office to full-time duty on a continuing basis with any committee of the Senate or House of Representatives or with any joint committee of Congress for any period of more than one year.

(b) The Comptroller General shall include in his annual report to the Congress the following information—

(1) the name of each employee assigned or detailed to any committee of the Senate or House of Representative or any joint committee of Congress;

(2) the name of each committee or joint committee to which each such employee is assigned or detailed;

(3) the length of the period of such assignment or detail of such employee;

(4) a statement as to whether such assignment or detail is finished or is currently in effect; and

(5) the pay of such employee, his travel, subsistence, and other expenses, the agency contributions for his retirement and life and health insurance benefits, and other necessary monetary expenses for personnel benefits on account of such employee, paid out of appropriations available to the General Accounting Office during the period of the assignment or detail of such employee, or, if such assignment or detail is currently

in effect during that part of the period of such assignment or detail which has been completed.

AGENCY REPORTS

SEC. 236. Whenever the General Accounting Office has made a report which contains recommendations to the head of any Federal agency, such agency shall—

(1) not later than sixty days after the date of such report, submit a written statement to the Committees on Government Operations of the House of Representatives and the Senate of the action taken by such agency with respect to such recommendations; and

(2) in connection with the first request for appropriations for that agency submitted to the Congress more than sixty days after the date of such report, submit a written statement to the Committees on Appropriations of the House of Representatives and the Senate of the action taken by such agency with respect to such recommendations.

October 26, 1970.

Impoundment Control Act of 1974

Title X of Public Law 93–344

(88 Stat. 332)

PART A—GENERAL PROVISIONS

DISCLAIMER

SEC. 1001. Nothing contained in this Act, or in any amendments made by this Act, shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying or approving any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect;

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment; or

(4) superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder.

AMENDMENT TO ANTIDEFICIENCY ACT

SEC. 1002. Section 3679(c)(2) of the Revised Statutes, as amended (31 U.S.C. 665), is amended to read as follows:

"(2) In apportioning an appropriation, reserves may be established solely to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements or greater efficiency of operations. Whenever it is determined by an officer designated in subsection (d) of this section to make apportionments and reapportionments that any amount so reserved will not be required to carry out the full objectives and scope of the appropriation concerned. He shall recommend the rescission of such amount in the manner provided in the Budget and Accounting Act, 1921, for estimates of appropriations. Except as specifically provided by particular appropriations Acts or other laws, no reserves shall be established other than as authorized by this subsection. Reserves established pursuant to this subsection shall be reported to the Congress in accordance with the Impoundment Control Act of 1974."

REPEAL OF EXISTING IMPOUNDMENT REPORTING PROVISION

SEC. 1003. Section 203 of the Budget and Accounting Procedures Act of 1950 is repealed.

PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

DEFINITIONS

SEC. 1011. For purposes of this part—

(1) "deferral of budget authority" includes—

(A) withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law;

(2) "Comptroller General" means the Comptroller General of the United States;

(3) "rescission bill" means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress;

(4) "impoundment resolution" means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 1013; and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3) of this section and in section 1012, and the 25-day periods referred to in sections 1016 and 1017(b)(1). If a special message is transmitted under section 1012 during any Congress and the last session of such Congress adjourns sine die before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3) of this section and in section 1012 (with respect to such message) shall commence on the day after such first day.

RESCISSION OF BUDGET AUTHORITY

SEC. 1012. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the termination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation

for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.

DISAPPROVAL OF PROPOSED DEFERRALS OF BUDGET AUTHORITY

SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the budget authority proposed to be deferred;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

(3) the period of time during which the budget authority to be deferred;

(4) the reasons for the proposed deferral, including any legal authority invoked by him to justify the proposed deferral;

(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority and specific elements of legal authority invoked by him to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed

deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be deferred, as set forth in a special message transmitted under subsection (a), shall be made available for obligation if either House of Congress passes an impoundment resolution disapproving such proposed deferral.

(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.

TRANSMISSION OF MESSAGES; PUBLICATION

SEC. 1014. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under section 1012 or 1013 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(b) DELIVERY TO COMPTROLLER GENERAL.—A copy of each special message transmitted under section 1012 or 1013 shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under sections 1012 and 1013, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practicable with respect to—

(1) in the case of a special message transmitted under section 1012, the facts surrounding the proposed rescission or the reservation of budget authority (including the probable effects thereof); and

(2) in the case of a special message transmitted under section 1013, (A) the facts surrounding each proposed deferral of budget authority (including the probable effects thereof) and (B) whether or not (or to what extent), in his judgment, such proposed deferral is in accordance with existing statutory authority.

(c) TRANSMISSION OF SUPPLEMENTARY MESSAGES.—If any information contained in a special message transmitted under section 1012 or 1013 is subsequently revised, the President shall transmit to both Houses of Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (a). The Comptroller General shall promptly notify the House of Representatives and the Senate of any changes

in the information submitted by him under his subsection (b) which may be necessitated by such revision.

(d) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under section 1012 or 1013, and any supplementary message transmitted under subsection (c) shall be printed in the first issue of the Federal Register published after such transmittal.

(e) CUMULATIVE REPORTS OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY.—

(1) The President shall submit a report to the House of Representatives and the Senate, not later than the 10th day of each month during a fiscal year, listing all budget authority for that fiscal year with respect to which, as of the first day of such month—

(A) he has transmitted a special message under section 1012 with respect to a proposed rescission or a reservation; and

(B) he has transmitted a special message under section 1013 proposing a deferral.

Such report shall also contain, with respect to each such proposed rescission or deferral, or each such reservation, the information required to be submitted in the special message with respect thereto under section 1012 or 1013.

(2) Each report submitted under paragraph (1) shall be printed in the first issue of the Federal Register published after its submission.

REPORTS BY COMPTROLLER GENERAL

SEC. 1015. (a) FAILURE TO TRANSMIT SPECIAL MESSAGE.—If the Comptroller General finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States—

(1) is to establish a reserve or proposes to defer budget authority with respect to which the President is required to transmit a special message under section 1012 or 1013; or

(2) has ordered, permitted, or approved the establishment of such a reserve or a deferral of budget authority;

and that the President has failed to transmit a special message with respect to such reserve or deferral, the Comptroller General shall make a report on such reserve or deferral and any available information concerning it to both Houses of Congress. The provisions of this part shall apply with respect to such reserve or deferral in the same manner and with the same effect as if such report of the Comptroller General were a special message transmitted by the President under section 1012 or 1013, and, for purposes of this part, such report shall be considered a special message transmitted under section 1012 or 1013.

(b) INCORRECT CLASSIFICATION OF SPECIAL MESSAGE.—If the President has transmitted a special message to both Houses of Congress in accordance with section 1012 or 1013, and the Comptroller General believes that the President so transmitted the special message in accordance with one of those sections when the special message should have been transmitted in accordance with the

other of those sections, the Comptroller General shall make a report to both Houses of the Congress setting forth his reasons.

SUITS BY COMPTROLLER GENERAL

SEC. 1016. If, under section 1012(b) or 1013(b), budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation. The courts shall give precedence to civil actions brought under this section, and to appeals and writs from decisions in such actions, over all other civil actions, appeals, and writs. No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate.

PROCEDURE IN HOUSE AND SENATE

SEC. 1017. (a) REFERRAL.—Any rescission bill introduced with respect to a special message or impoundment resolution introduced with respect to a proposed deferral of budget authority shall be refereed to the appropriate committee of the House of Representatives or the Senate, as the case may be.

(b) DISCHARGE OF COMMITTEE.—

(1) If the committee to which a rescission bill or impoundment resolution has been referred has not reported it at the end of 25 calendar days of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the same special message or impoundment resolution with respect to the same proposed deferral, as the case may be, which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral, as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and con-

trolled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) FLOOR CONSIDERATION IN THE HOUSE.—

(1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of, a rescission bill or impoundment resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on a rescission bill or impoundment resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of a rescission bill or impoundment resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any rescission bill or impoundment resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill or impoundment resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

(d) FLOOR CONSIDERATION IN THE SENATE.—

(1) Debate in the Senate on any rescission bill or impoundment resolution, and all amendments thereto (in the case of a rescission bill) and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a rescission bill shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on an amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill or an impoundment resolution shall be limited to 1, hours to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in

the event the manager of the bill or resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a rescission bill shall be received. Such leaders, or either of them, may, from time to time under their control on the passage of a rescission bill or impoundment resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. In the case of a rescission bill, a motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. In the case of an impoundment resolution, no amendment or motion to recommit is in order.

(4) The conference report on any rescission bill shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagree to.

(5) During the consideration in the Senate of the conference report on any rescission bill, debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(7) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his des-

ignee. No amendment that is not germane to the provisions of such amendments shall be received.

Approved July 12, 1974.

Federal Managers' Financial Integrity Act of 1982

Public Law 97–255

(96 Stat. 814)

AN ACT To amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "Federal Managers' Financial Integrity Act of 1982". *(31 U.S.C. 65 note).*

SEC. 2. Section 113 of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a) is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) To ensure compliance with the requirements of subsection (a)(3) of this section, internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General, and shall provide reasonable assurances that—

"(i) obligations and costs are in compliance with applicable law;

"(ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and

"(iii) revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

"(B) The standards prescribed by the Comptroller General under this paragraph shall include standards to ensure the prompt resolution of all audit findings.

"(2) By December 31, 1982, the Director of the Office of Management and Budget, in consultation with the Comptroller General, shall establish guidelines for the evaluation by agencies of their systems of internal accounting and administrative control to determine such systems' compliance with the requirements of paragraph (1) of this subsection. The Director, in consultation with the Comptroller General, may modify such guidelines from time to time as deemed necessary.

"(3) By December 31, 1983, and by December 31 of each succeeding year, the head of each executive agency shall, on the basis of an evaluation conducted in accordance with guidelines prescribed under paragraph (2) of this subsection, prepare a statement—

"(A) that the agency's systems of internal accounting and administrative control fully comply with the requirements of paragraph (1); or

"(B) that such systems do not fully comply with such requirements.

"(4) In the event that the head of an agency prepares a statement described in paragraph (3)(B), the head of such agency shall include with such statement a report in which any material weaknesses in the agency's systems of internal accounting and administrative control are identified and the plans and schedule for correcting any such weakness are described.

"(5) The statements and reports required by this subsection shall be signed by the head of each executive agency and transmitted to the President and the Congress. Such statements and reports shall also be made available to the public, except that, in the case of any such statement or report containing information which is—

"(A) specifically prohibited from disclosure by any provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, such information shall be deleted prior to the report or statement being made available to the public.".

SEC. 3. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new subsection:

"(k)(1) The President shall include in the supporting detail accompanying each Budget submitted on or after January 1, 1983, a separate statement, with respect to each department and establishment, of the amounts of appropriations requested by the President for the Office of Inspector General, if any, of each such establishment or department.

"(2) At the request of 8 committee of the Congress, additional information concerning the amount of appropriations originally requested by any office of Inspector General, shall be submitted to such committee.".

SEC. 4. Section 113(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a(b)), is amended by adding at the end thereof the following new sentence: "Each annual statement prepared pursuant to subsection (d) of this section shall include a separate report on whether the agency's accounting system conforms to the principles, standards, and related requirements prescribed by the Comptroller General under section 112 of this Act.". *(31 U.S.C. 66a).*

Approved September 8, 1982.

This Act has not been amended as of December 31, 1995.

Debt Collection Act of 1982

Public Law 97–365

(96 Stat. 1749)

AN ACT To increase the efficiency of Government-wide efforts to collect debts owed The United States and to provide additional procedures for the collection of debts owed the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act maybe cited as the "Debt Collection Act of 1982". (5 U.S.C. 5514 note).

AMENDMENTS TO THE PRIVACY ACT

SEC. 2. (a) Section 552a(b) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(12) to a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)).".

(b) Section 552a(m) of such title is amended—

(1) by inserting "(1)" immediately after "(m)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A consumer reporting agency to which a record is disclosed under section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)) shall not be considered a contractor for the purposes of this section.".

AMENDMENT TO THE FEDERAL CLAIMS COLLECTION ACT OF 1966

SEC. 3. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

"(d)(1) Whenever the head of an agency attempts to collect a claim of the United States under subsection (a) of this section, or under any other statutory authority except the Internal Revenue Code of 1954, the head of the agency may disclose *(26 U.S.C. 1 et seq.)* to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

"(A) the notice for the system of records required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency;

"(B) the head of the agency has reviewed the claim and determined that such claim is valid and overdue;

"(C) the head of the agency has sent a written notice to the individual informing such individual*

"(i) that the payment of the claim is overdue;

"(ii) that the agency intends to disclose to a consumer reporting agency, within not less than sixty days after sending such notice, that the individual is responsible for such claim;

"(iii) of the specific information intended to be disclosed to the consumer reporting agency; and

"(iv) of the rights of such individual to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and to administrative appeal or review with respect to the claim;"

"(D) such individual has not—

"(i) repaid or agreed to repay such claim under a repayment plan which is agreeable to the head of the agency and is in a written form signed by such individual; or

"(ii) filed for review of such claim under paragraph (2) of this subsection;

"(E) the agency has established procedures (i) for promptly disclosing, to each consumer reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim, (ii) for promptly verifying or correcting, as appropriate, information concerning the claim upon the request of any such consumer reporting agency for verification of any or all information so disclosed, and (iii) for obtaining satisfactory assurances from each such consumer reporting agency concerning compliance by such consumer reporting agency with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law governing the provision of consumer credit information; and

"(F) the information disclosed to the consumer reporting agency is limited to (i) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (ii) the amount, status, and history of the claim, and (iii) the agency or program under which the claim arose.

"(2) Prior to a disclosure to any consumer reporting agency under paragraph (1) of this subsection and at such other times as may be permitted by law, the head of the agency shall, upon request of any individual alleged by the agency to be responsible for the claim, provide for the review of the obligation of such individual, including an opportunity for reconsideration of the initial decision concerning the claim.

"(3) If an agency does not have a current address for an individual for the purpose of sending the notice required by paragraph (1)(C), the agency shall take reasonable action to locate the individual prior to disclosing any information to a consumer reporting agency under paragraph (1).

"(4) For purposes of this subsection—

"(A) the term 'consumer reporting agency' means—

"(i) a consumer reporting agency within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.E;.C. 1681a(f)); or

"(ii) any person who, for monetary fees, dues, or on a co-operative basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this subparagraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies;

"(B) the term 'system of records' has the meaning given such term under section 552a(a)(5) of title 5, United States Code; and

"(C) the term 'head of an agency' includes a designee of the head of an agency.".

REQUIREMENT THAT APPLICANT FURNISH TAXPAYER IDENTIFYING NUMBER

NUMBER

SEC. 4. (a) IN GENERAL.—Each Federal agency administering an included Federal loan program shall require any person applying for a loan under such program to furnish such person's taxpayer identifying number. *(26 U.S.C. 6103 note).*

(b) DEFINITIONS.—For purposes of this section—

(1) INCLUDED FEDERAL LOAN PROGRAM.—The term "included Federal loan program" has the meaning given to such term by subparagraph (C) of section 6103(l)(3) of the Internal Revenue Code of 1954 (as added by section 7 of this Act).

(2) TAXPAYER IDENTIFYING NUMBER.—The term "taxpayer identifying number" has the meaning given to such term by section 6109 of such Code. *(26 U.S.C. 6109).*

SALARY OFFSET

SEC. 5. (a) Subsection (a) of section 5514 of title 5, United States Code, is amended to read as follows:

"(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made

from subsequent payments of any nature due the individual from the agency concerned.

"(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

"(A) a minimum of thirty days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

"(B) an opportunity to inspect and copy Government records relating to the debt;

"(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

"(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule. A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date but not later than sixty days after the filing of the petition requesting the hearing.

"(3) the collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

"(4) For purposes of this subsection—

"(A) 'disposable pay' means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

"(B) 'agency' includes the United States Postal Service and the Postal Rate Commission.".

(b) Section 5514(b) of title 5, United States Code, is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section

shall be considered to be a Government-wide rule or regulation.".

(c) The section heading of section 5514 of title 5, United States Code, is amended to read as follows:

"§ 5514. Installment deduction for indebtedness to the United States"

PROTECTION OF FEDERAL DEBT COLLECTORS

SEC. 6. Section 1114 of title 18, United States Code, is amended—

(1) by striking out "or" before "any attorney"; and

(2) by inserting before "shall be punished" a comma and the following: "or any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or other statutory authority".

SCREENING POTENTIAL DEBTORS

SEC. 7. (a) DISCLOSURE TO FEDERAL LENDING AGENCY THAT APPLICANT HAS TAX DELINQUENT ACCOUNT.—Paragraph (3) of section 6103(l) of the Internal Revenue Code of 1954 is amended to read as follows: *(26 U.S.C. 6103).*

(3) DISCLOSURE THAT APPLICANT FOR FEDERAL LOAN HAS TAX DELINQUENT ACCOUNT.—

"(A) IN GENERAL.—Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

"(B) RESTRICTION ON DISCLOSURE. Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the credit worthiness of the applicant for the loan in question.

"(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED. For purposes of this paragraph, the term 'included Federal loan program' means any program—

"(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

"(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 6103(p)(3)(C) of such Code is amended by striking out "(1) (3) or (6) and inserting in lieu thereof "(1)(6)".

(2) Paragraph (4) of section 6103(p) of such Code is amended—

(A) by striking out "(1) (1), (2)," in the matter preceding subparagraph (A) and inserting in lieu thereof "(1) (1), (2),

(B) by striking out "(1) (3), (6)," and inserting in lieu thereof "(1)(6),", and

(C) by striking out "(1) (1), (2), or (5), or (o)(1), the commission described in subsection (1)(3)" in subparagraph (F)(ii) and inserting in lieu thereof "(1) (1), (2), (3), or (5), or (o)(1),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of loan applications made after September 30, 1982. *(26 U.S.C. 6103 note).*

DISCLOSURE OF MAILING ADDRESS TO THIRD PARTIES FOR PURPOSES OF COLLECTING FEDERAL CLAIMS

SEC. 8. (a) Paragraph (2) of section 6103(m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) *(26 U.S.C. 6103)* is amended to read as follows:

"(2) FEDERAL CLAIMS.—

"(A) IN GENERAL. Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952).

"(B) SPECIAL RULE FOR CONSUMER REPORTING AGENCY. In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. l68la(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)."

(b) SAFEGUARDS.—Paragraph (4) of section 6103(p) *(26 U.S.C. 6103)* of such Code (relating to safeguards) is amended by adding at the end thereof the following new sentence: "In the case of any agency which receives any mailing address under subsection (m) (2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency)."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6103(a) of such Code is amended by striking out "subsection (m)(4)B" and inserting in lieu thereof "paragraph (2) or (4)(B) of subsection (m)".

(2) Paragraph (2) of section 7213(a) *(26 U.S.C. 7213)* of such Code (relating to unauthorized disclosure of information) is amended by striking out "(m)(4)" and inserting in lieu thereof "(m) (2) or (4)".

(d) EFFECTIVE DATE. *(26 U.S.C. 6103)*—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) Except as otherwise provided *(5 U.S.C. 5514 note)* in section 4 or 7 or the foregoing provisions of this section, nothing in this Act (or in the amendments made by this Act) shall apply to claims or indebtedness arising under, or amounts payable under, the Internal Revenue Code of 1954, *(26 U.S.C. 1 et seq. 42 U.S.C. 1305)* the Social Security Act, or the tariff laws of the United States.

STATUTE OF LIMITATIONS WITH RESPECT TO ADMINISTRATIVE OFFSETS

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not prevent the United States or an officer or agency thereof from collecting any claim of the United States by means of administrative offset, in accordance with section 5 of the Federal Claims Collection Act of 1966.".

ADMINISTRATIVE OFFSETS

SEC. 10. The Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) is amended *(31 U.S.C. 951 note)*—

(1) by redesignating section 5 as section 6; and

(2) by adding the following new section 5:

"SEC. 5. (a) The head of an agency or his designee may, after attempting to collect a claim from a Person under section 3(a) of this Act, collect the claim by means of administrative offset, except that no claim under this Act that has been outstanding for more than ten years may be collected by means of administrative offset.

"(b) The head of an agency or his designee may not collect any claim by administrative offset authorized by subsection (a) unless the agency head has prescribed regulations for the exercise of such administrative offset, *(31 U.S.C. 954)* based on the best interests of the United States, the likelihood of collecting a claim by administrative offset, and, with respect to the collection of claims by means of administrative offset after the six-year period provided in section 2415 of title 28, United States Code, has expired for bringing an action on such a claim, the cost effectiveness of leaving such claim unresolved for more than six years.

"(c) Prior to collecting any claim through administrative offset, the head of the agency or his designee shall provide the debtor with—

"(1) written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of the rights of the debtor under this section;

"(2) an opportunity to inspect and copy the records of the agency with respect to the claim;

"(3) an opportunity for the review, within the agency, of the determination of the agency with respect to the claim; and

"(4) an opportunity to enter into a written agreement with the head of the agency or his designee, for the repayment of the amount of the claim.

"(d) The provisions of this section shall not apply in any case in which a statute either explicitly provides for or prohibits the collection through administrative offset of the claim or type of claim involved.

"(e) For purposes of this section—

"(1) the term 'administrative offset' means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed the United States by that person; and

"(2) the term 'person' does not include any agency of the United States, or of any State or local government.".

INTEREST AND PENALTY ON INDEBTEDNESS TO THE UNITED STATES

SEC. 11. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new subsection:

"(e)(1) Except as provided in paragraph (3), the head of an agency or his designee shall charge a minimum annual rate of interest on outstanding debts on claims owed by persons that is equal to the average investment rate for the Treasury tax and loan accounts for the twelve-month period ending on September 30 of each year, rounded to the nearest whole per centum. The Secretary of the Treasury or his designee shall publish such rate each year not later than October 31 and such rate shall become effective on the first day of the next calendar quarter. The Secretary of the Treasury may revise such rate quarterly if the average investment rate for the twelve-month period ending at the close of that calendar quarter, rounded to the nearest whole per centum, is greater or less than the existing published rate by 2 per centum. For purposes of this paragraph, 'calendar quarter' means any three month period beginning on January 1, April 1, July 1, or October 1.

"(2) Except as provided in paragraph (3), the head of an agency or his designee shall, with respect to claims owed by persons—

"(A) assess charges to cover the costs of processing and handling delinquent claims, and

"(B) assess a penalty charge, not to exceed 6 per centum per annum, for failure to pay any portion of a debt more than ninety days past due.

"(3) Interest and charges under paragraphs (1) and (2) shall not apply if an applicable statute, a regulation required by statute, a loan agreement, or a contract either prohibit the charging of interest or charges, or explicitly fix interest or charges that apply to claims involved. The head of an agency or his designee may promulgate regulations identifying circumstances appropriate to waive collection of interest and charges in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. Waivers in accordance with such regulations shall constitute compliance with the requirements of paragraphs (1) and (2).

"(4) This subsection shall not apply to any claim under a contract which is executed before the effective date of this subsection and which is in effect on that date.

"(5) Subject to paragraph (6), interest under paragraph (1) shall accrue"

"(A) except as provided in subparagraph (B), from the date on which notification of the amount due on the claim is first mailed to the debtor (using the most current address of such debtor that is available to the head of the agency or his designee; or

"(B) if such notification was first mailed before the date of the enactment of the Debt Collection Act of 1982, from the date on which such notification is first mailed after such date of enactment.

The rate of interest to be charged on a claim under paragraph (1) shall be the rate in effect on the date from which interest accrues on the claim under subparagraph (A) or (B), and shall remain fixed at that rate for the duration of the indebtedness.

"(6) Interest under paragraph (1) shall not be charged if the amount due on the claim is paid within thirty days after the date from which interest accrues under paragraph (5). The head of an agency may extend such thirty-day period.

"(7) Interest under this subsection shall not accrue on any charges assessed pursuant to paragraph (2) of this subsection.

"(8) For purposes of this subsection, the term 'person' does not include any agency of the United States or any State or local government."

REPORT ON AGENCY DEBT COLLECTION ACTIVITIES

SEC. 12. (a) The Director of the Office of Management and Budget, *(31 U.S.C. 955)* in consultation with the Secretary of the Treasury and Comptroller General of the United States, shall establish regulations requiring each agency with outstanding debts to prepare and transmit to the Director and the Secretary of the Treasury at least once each year a report which summarizes the status of loans and accounts receivable managed by each agency. The report shall contain information regarding—

(1) the total amount of loans and accounts receivable owed to the agency and when the funds owed to the agency are due to be repaid;

(2) the total amount of receivables and number of claims that are at least thirty days past due;

(3) the total amount written off as uncollectible, actual, and allowed for;

(4) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) the total number of claims and total amount collected

(6) the number of claims and the total amount of claims referred to the Department of Justice for settlement and the number of claims and the total amount of claims settled by such Department;

(7) for each program or activity administered by the agency, the information described in clauses (1) through (6) of this subsection; and

(8) such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect the claims of the agency.

(b) The Director shall analyze the reports received by each agency under subsection (a) and shall report annually to the Congress

on the management of agency debt collection activities, including the information provided to the Director under subsection (a) above.

CONTRACTS FOR COLLECTION SERVICES

SEC. 13. (a) Section 3617 of the Revised Statutes (31 U.S.C. 484) is amended by striking out "section 487" and inserting in lieu thereof "sections 487 and 952(g)(2)".

(b) Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by sections 3 and 11 of this Act) is further amended by adding at the end thereof the following new subsections:

"(f)(1) Notwithstanding the provisions of any other law governing the collection of claims owed the United States, except for collections of unpaid or underpaid debts under the Internal Revenue Code of 1954, the head of an agency or his designee may enter into a contract with any person or organization, under such terms and conditions as the head of the agency or his designee considers appropriate, for collection services to recover indebtedness owed to the United States. Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and refer the matter to the Attorney General to initiate legal action, and that the contractor shall be subject to section 552a of title 5, United States Code, to the extent provided in subsection (m) of that section, and shall be subject to Federal and State laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

"(2) Notwithstanding section 3617 of the Revised Statutes (31 U.S.C. 484), the head of an agency or his designee may provide, as part of a contract described in paragraph (1), that appropriate fees charged by a contractor to recover indebtedness owed to the United States may be payable from the amount collected by such contractor.

"(3) Any such contract shall be effective only to such extent and in such amounts as are provided in advance appropriation Acts.

"(g) For purposes of this Act, the term 'claim' includes amounts owing on account of loans insured or guaranteed by the United States and all other amounts due the United States from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, taxes, forfeitures, and other sources.".

Approved October 25, 1982.

This law has been amended by Public Law 103–272, sec. 7(b), July 5, 1994, 108 Stat. 1393.

SINGLE AUDIT ACT OF 1984

Public Law 98–502

(98 Stat. 2327)

AN ACT To establish uniform audit requirements for State and local governments receiving Federal financial assistance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; PURPOSE

Section 1. (a) This Act may be cited as the "Single Audit Act of 1984". *(31 U.S.C. 7501 note).*

(b) It is the purpose of this Act—

(1) to improve the financial management of State and local governments with respect to Federal financial assistance programs;

(2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;

(3) to promote the efficient and effective use of audit resources; and

(4) to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).

AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.

"7501. Definitions.
"7502. Audit requirements; exemptions.
"7503. Relation to other audit requirement.
"7504. Cognizant agency responsibilities.
"7505. Regulations.
"7506. Monitoring responsibilities of the Comptroller General.
"7537. Effective date; report.

"§ 7501. Definitions *(31 U.S.C. 7501)*

"As used in this chapter, the term—

"(1) 'cognizant agency' means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government."

"(2) 'Comptroller General' means the Comptroller General of the United States.

"(3) 'Director' means the Director of the Office of Management and Budget.

"(4) 'Federal financial assistance' means assistance provided by a Federal agency in the form of grants, contracts, loans. loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals

"(5) 'Federal agency' has the same meaning as the term 'agency' in section 551(l) of title 5, United States Code.

"(6) 'generally accepted accounting principles' has the meaning specified in the generally accepted government auditing standards.

"(7) 'generally accepted government auditing standards' means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

"(8) 'independent auditor' means

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

"(B) a public accountant who meets such independence standards.

"(9) 'internal controls' means the plan of organization and methods and procedures adopted by management to ensure that—

"(A) resource use is consistent with laws, regulations, and policies;

"(B) resources are safeguarded against waste, loss, and misuse; and

"(C) reliable data are obtained, maintained, and fairly disclosed in reports.

"(10) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

"(12) 'major Federal assistance program' means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed

"(A) $20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $7,000,000,000;

"(B) $19,000,000 in the case of a State or local government for which such total expenditures for all programs

exceed $6,000,000,000 but are less than or equal to $7,000,000,000;

"(C) $16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $5,000,000,000 but are less than or equal to $6,000,000,000;

"(D) $13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $4,000,000,000 but are less than or equal to $5,000,000,000;

"(E) $10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $3,000,000,000 but are less than or equal to $4,000,000,000;

"(F) $7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $2,000,000,000 but are less than or equal to $3,000,000,000;

"(G) $4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $2,000,000,000;

"(H) $3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $1,000,000,000; and

"(I) the larger of (i) $300,000, or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed $100,000 but are less than or equal to $100,000,000.

"(13) 'public accountants' means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

"(14) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

"(15) 'subrecipient' means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

SECTION 7502. Audit requirements; exemptions *(31 U.S.C. 7502)*

"(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of $100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

"(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of $25,000 but less than $100,000 in any fiscal year of such government shall—

"(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

"(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

"(C) Each State and local government that receives a total amount of Federal financial assistance which is less than $25,000 in any fiscal year of such government shall be exempt for such fiscal year from compliance with

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Comptroller General access to such records.

"(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) If a State or local government is required—

"(A) by constitution or statute, as in effect on the date of enactment of this chapter, or

"(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on such date,

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

"(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period."

(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

"(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

"(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

"(B) such audit may exclude public hospitals and public colleges and universities.

"(2) Each such audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

"(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

"(ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

"(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

"(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program. In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

"(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

"(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

"(5) Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of $25,000 or more under chapter 67 *(31 U.S.C. 6701 et seq.)* of this title (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for

such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.

"(6) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

"(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides $25,000 or more of such assistance in any fiscal year to a subrecipient, shall

"(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

"(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter

"(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

"(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government.

"(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.

(f) The report made on any audit conducted pursuant to this section shall, within thirty days after completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of this title. *(31 U.S.C. 3512).*

"§ 7503. Relation to other audit requirements *(31 U.S.C. 7503)*

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an indi-

vidual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

"(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

"(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

"(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

"SECTION 7504. Cognizant agency responsibilities *(31 U.S.C. 7504)*

"(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

"(b) A cognizant agency shall—

"(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

"(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

"(3)(A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

"SECTION 7505. Regulations *(31 U.S.C. 7505)*

"(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

"(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a

State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

"(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"SECTION 7506. Monitoring responsibilities of the Comptroller General *(31 U.S.C. 7506)*

"The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Operations of the House of Representatives in the case of a bill or resolution reported by a committee of the House of Representatives).

"SECTION 7507. Effective date; report *(31 U.S.C. 7507)*

"(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

"(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter".

(b) The provisions of this Act shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority.

(c) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"75. Requirements for Single Audits.....7501"

Approved October 19, 1984

This Act has not been amended as of December 31, 1995.

Chief Financial Officers Act of 1990

Public Law 101–576

(104 Stat. 2838)

AN ACT To amend title 31, United States Code, to improve the general and financial management of the Federal Government by establishing a Chief Financial Officer of the United States within the Office of Management and Budget; by establishing a Chief Financial Officer within each executive department and within each major executive agency; and by requiring the development of systems that provide complete, accurate, and timely reporting of financial information.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Chief Financial Officers Act of 1990".

SEC. 102. FINDINGS AND PURPOSES.

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

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

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

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

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

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

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

(b) PURPOSES.—The purposes of this Act are the following:

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

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

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

TITLE II—ESTABLISHMENT OF CHIEF FINANCIAL OFFICERS

SEC. 201. DEPUTY DIRECTOR FOR MANAGEMENT.

Section 502 of title 31, United States Code, as amended by this Act, is amended—

(1) by redesignating subsections (c), (d), and (e), as amended by this section, as subsections (d), (e), and (f); and

(2) by inserting after subsection (b) the following:

"(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director for Management shall be the chief official responsible for financial management in the United States Government.".

SEC. 202. FUNCTIONS OF DEPUTY DIRECTOR FOR MANAGEMENT.

(a) CLERICAL AMENDMENTS.—Sections 503 and 504 of title 31, United States Code, are redesignated in order as sections 505 and 506, respectively.

(b) FUNCTIONS OF DEPUTY DIRECTOR FOR MANAGEMENT.—Subchapter I of chapter 5 of title 31, United States Code, is amended by inserting after section 502 the following:

§ 503. Functions of Deputy Director for Management

"(a) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions:

"(1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.

"(2) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.

"(3) Review agency budget requests for financial management systems and operations, and advise the Director on the

resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.

"(4) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they are in accordance with financial management plans of the Office of Management and Budget.

"(5) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

"(6) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

"(7) Develop and maintain qualification standards for agency Chief Financial Officers and for agency Deputy Chief Financial Officers appointed under sections 901 and 903, respectively.

"(8) Provide advice to agency heads with respect to the selection of agency Chief Financial Officers and Deputy Chief Financial Officers.

"(9) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

"(10) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

"(11) Settle differences that arise among agencies regarding the implementation of financial management policies.

"(12) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

"(13) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

"(14) Issue such other policies and directives as may be necessary to carry out this section, and perform any other function prescribed by the Director.

"(b) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

"(1) Coordinate and supervise the general management functions of the Office of Management and Budget.

"(2) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to—

"(A) managerial systems, including the systematic measurement of performance;

"(B) procurement policy;

"(C) grant, cooperative agreement, and assistance management;

"(D) information and statistical policy;

"(E) property management;

"(F) human resources management;

"(G) regulatory affairs; and

"(H) other management functions, including organizational studies, long-range planning, program evaluation, productivity improvement, and experimentation and demonstration programs.

"(3) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

"(4) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government operations and to remove impediments to effective administration.

"(5) Provide leadership in management innovation, through—

"(A) experimentation, testing, and demonstration programs; and

"(B) the adoption of modern management concepts and technologies.

"(6) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

"(7) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

"(8) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

"(9) perform any other functions prescribed by the Director.".

SEC. 203. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

(a) ESTABLISHMENT.—Subchapter I of chapter 5 of title 31, United States Code, as amended by this Act, is amended by inserting after section 503 (as added by section 202 of this Act) the following:

"§ 504. Office of Federal Financial Management

"(a) There is established in the Office of Management and Budget an office to be known as the 'Office of Federal Financial Management'. The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(a) of this title.

"(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess—

"(1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and

"(2) extensive practical experience in financial management in large governmental or business entities.

"(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(a).".

(b) STATEMENT OF APPROPRIATIONS IN BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

"(28) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.".

(c) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 5 of title 31, United States Code, is amended by striking the items relating to sections 503 and 504 and inserting the following:

"503. Functions of Deputy Director for Management.
"504. Office of Federal Financial Management.
"505. Office of Information and Regulatory Affairs.
"506. Office of Federal Procurement Policy.".

SEC. 204. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF THE TREASURY.

Nothing in this Act shall be construed to interfere with the exercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act.

SEC. 205. AGENCY CHIEF FINANCIAL OFFICERS.

(a) IN GENERAL.—Subtitle I of title 31, United States Code, is amended by adding at the end the following new chapter:

CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

"Sec.
"901. Establishment of agency Chief Financial Officers.
"902. Authority and functions of agency Chief Financial Officers.
"903. Establishment of agency Deputy Chief Financial Officers.

"§ 901. Establishment of agency Chief Financial Officers

"(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

"(1) for those agencies described in subsection (b)(1)—

"(A) be appointed by the President, by and with the advice and consent of the Senate; or

"(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;

"(2) for those agencies described in subsection (b)(2)—

"(A) be appointed by the head of the agency;

"(B) be in the competitive service or the senior executive service; and

"(C) be career appointees; and

"(3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in financial management practices in large governmental or business entities.

"(b)(1) The agencies referred to in subsection (a)(1) are the following:

"(A) The Department of Agriculture.

"(B) The Department of Commerce.

"(C) The Department of Defense.

"(D) The Department of Education.
"(E) The Department of Energy.
"(F) The Department of Health and Human Services.
"(G) The Department of Housing and Urban Development.
"(H) The Department of the Interior.
"(I) The Department of Justice.
"(J) The Department of Labor.
"(K) The Department of State.
"(L) The Department of Transportation.
"(M) The Department of the Treasury.
"(N) The Department of Veterans Affairs.
"(O) The Environmental Protection Agency.
"(P) The National Aeronautics and Space Administration.

"(2) The agencies referred to in subsection (a)(2) are the following:

"(A) The Agency for International Development.
"(B) The Federal Emergency Management Agency.
"(C) The General Services Administration.
"(D) The National Science Foundation.
"(E) The Nuclear Regulatory Commission.
"(F) The Office of Personnel Management.
"(G) The Small Business Administration.

"§ 902. Authority and Functions of Agency Chief Financial Officers

"(a) An agency Chief Financial Officer shall—

"(1) report directly to the head of the agency regarding financial management matters;

"(2) oversee all financial management activities relating to the programs and operations of the agency;

"(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—

"(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;

"(B) complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;

"(C) complies with any other requirements applicable to such systems; and

"(D) provides for—

"(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;

"(ii) the development and reporting of cost information;

"(iii) the integration of accounting and budgeting information; and

"(iv) the systematic measurement of performance;

"(4) make recommendations to the head of the agency regarding the selection of the Deputy Chief Financial Officer of the agency;

"(5) direct, manage, and provide policy guidance and oversight of agency financial management personnel, activities, and operations, including—

"(A) the preparation and annual revision of an agency plan to—

"(i) implement the 5-year financial management plan prepared by the Director of the Office of Management and Budget under section 3512(a)(3) of this title; and

"(ii) comply with the requirements established under sections 3515 and subsections (e) and (f) of section 3521 of this title;

"(B) the development of agency financial management budgets;

"(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;

"(D) the approval and management of agency financial management systems design or enhancement projects;

"(E) the implementation of agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control;

"(6) prepare and transmit, by not later than 60 days after the submission of the audit report required by section 3521(f) of this title, an annual report to the agency head and the Director of the Office of Management and Budget, which shall include—

"(A) a description and analysis of the status of financial management of the agency;

"(B) the annual financial statements prepared under section 3515 of this title;

"(C) the audit report transmitted to the head of the agency under section 3521(f) of this title;

"(D) a summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97–255); and

"(E) other information the head of the agency considers appropriate to fully inform the President and the Congress concerning the financial management of the agency;

"(7) monitor the financial execution of the budget of the agency in relation to actual expenditures, and prepare and submit to the head of the agency timely performance reports; and

"(8) review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

"(b)(1) In addition to the authority otherwise provided by this section, each agency Chief Financial Officer—

"(A) subject to paragraph (2), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the agency or

which are available to the agency, and which relate to programs and operations with respect to which that agency Chief Financial Officer has responsibilities under this section;

"(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental entity; and

"(C) to the extent and in such amounts as may be provided in advance by appropriations Acts, may—

"(i) enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

"(ii) make such payments as may be necessary to carry out the provisions of this section.

"(2) Except as provided in paragraph (1)(B), this subsection does not provide to an agency Chief Financial Officer any access greater than permitted under any other law to records, reports, audits, reviews, documents, papers, recommendations, or other material of any Office of Inspector General established under the Inspector General Act of 1978 (5 U.S.C. App.).

"903. Establishment of agency Deputy Chief Financial Officers

"(a) There shall be within each agency described in section 901(b) an agency Deputy Chief Financial Officer, who shall report directly to the agency Chief Financial Officer on financial management matters. The position of agency Deputy Chief Financial Officer shall be a career reserved position in the Senior Executive Service.

"(b) Consistent with qualification standards developed by, and in consultation with, the agency Chief Financial Officer and the Director of the Office of Management and Budget, the head of each agency shall appoint as Deputy Chief Financial Officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management at large governmental entities.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle I of title 31, United States Code, is amended by adding at the end the following:

"9. Agency Chief Financial Officers 901.".

(c) CHIEF FINANCIAL OFFICERS OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) Designation.—The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development may each designate as the agency Chief Financial Officer of that department for purposes of section 901 of title 31, United States Code, as amended by this section, the officer designated, respectively, under section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as in effect before the effective date of this Act.

(2) Conforming amendment.—Section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42

U.S.C. 3533(e)), as added by section 121 of Public Law 101–235, are repealed.

SEC. 206. Transfer of Functions and Personnel of Agency Chief Financial Officers.

(a) AGENCY REVIEWS OF FINANCIAL MANAGEMENT ACTIVITIES.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall require each agency listed in subsection (b) of section 901 of title 31, United States Code, as amended by this Act, to conduct a review of its financial management activities for the purpose of consolidating its accounting, budgeting, and other financial management activities under the agency Chief Financial Officer appointed under subsection (a) of that section for the agency.

(b) REORGANIZATION PROPOSAL.—Not later than 120 days after the issuance of requirements under subsection (a) and subject to all laws vesting functions in particular officers and employees of the United States, the head of each agency shall submit to the Director of the Office of Management and Budget a proposal for reorganizing the agency for the purposes of this Act. Such proposal shall include—

(1) a description of all functions, powers, duties, personnel, property, or records which the agency Chief Financial Officer is proposed to have authority over, including those relating to functions that are not related to financial management activities; and

(2) a detailed outline of the administrative structure of the office of the agency Chief Financial Officer, including a description of the responsibility and authority of financial management personnel and resources in agencies or other subdivisions as appropriate to that agency.

(c) REVIEW AND APPROVAL OF PROPOSAL.—Not later than 60 days after receiving a proposal from the head of an agency under subsection (b), the Director of the Office of Management and Budget shall approve or disapprove the proposal and notify the head of the agency of that approval or disapproval. The Director shall approve each proposal which establishes an agency Chief Financial Officer in conformance with section 901 of title 31, United States Code, as added by this Act, and which establishes a financial management structure reasonably tailored to the functions of the agency. Upon approving or disapproving a proposal of an agency under this section, the Director shall transmit to the head of the agency a written notice of that approval or disapproval.

(d) IMPLEMENTATION OF PROPOSAL.—Upon receiving written notice of approval of a proposal under this section from the Director of the Office of Management and Budget, the head of an agency shall implement that proposal.

SEC. 207. COMPENSATION.

(a) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Director for Management, Office of Management and Budget.".

(b) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Controller, Office of Federal Financial Management, Office of Management and Budget.".

(c) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief Financial Officer, Department of Agriculture.
"Chief Financial Officer, Department of Commerce.
"Chief Financial Officer, Department of Defense.
"Chief Financial Officer, Department of Education.
"Chief Financial Officer, Department of Energy.
"Chief Financial Officer, Department of Health and Human Services.
"Chief Financial Officer, Department of Housing and Urban Development.
"Chief Financial Officer, Department of the Interior.
"Chief Financial Officer, Department of Justice.
"Chief Financial Officer, Department of Labor.
"Chief Financial Officer, Department of State.
"Chief Financial Officer, Department of Transportation.
"Chief Financial Officer, Department of the Treasury.
"Chief Financial Officer, Department of Veterans Affairs.
"Chief Financial Officer, Environmental Protection Agency.
"Chief Financial Officer, National Aeronautics and Space Administration.".

TITLE III—ENHANCEMENT OF FEDERAL FINANCIAL MANAGEMENT ACTIVITIES

SEC. 301. FINANCIAL MANAGEMENT STATUS REPORT; 5-YEAR PLAN OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.—(a) IN GENERAL.—Section 3512 of title 31, United States Code, is amended by striking the heading thereof, redesignating subsections (a) through (f) in order as subsections (b) through (g), and by inserting before such subsection (b), as so redesignated, the following:

"3512. Executive agency accounting and other financial management reports and plans

"(a)(1) The Director of the Office of Management and Budget shall prepare and submit to the appropriate committees of the Congress a financial management status report and a governmentwide 5-year financial management plan.

"(2) A financial management status report under this subsection shall include—

"(A) a description and analysis of the status of financial management in the executive branch;

"(B) a summary of the most recently completed financial statements—

"(i) of Federal agencies under section 3515 of this title; and

"(ii) of Government corporations;

"(C) a summary of the most recently completed financial statement audits and reports—

"(i) of Federal agencies under section 3521 (e) and (f) of this title; and

"(ii) of Government corporations;

"(D) a summary of reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97–255); and

"(E) any other information the Director considers appropriate to fully inform the Congress regarding the financial management of the Federal Government.

"(3)(A) A governmentwide 5-year financial management plan under this subsection shall describe the activities the Director, the Deputy Director for Management, the Controller of the Office of Federal Financial Management, and agency Chief Financial Officers shall conduct over the next 5 fiscal years to improve the financial management of the Federal Government.

"(B) Each governmentwide 5-year financial management plan prepared under this subsection shall—

"(i) describe the existing financial management structure and any changes needed to establish an integrated financial management system;

"(ii) be consistent with applicable accounting principles, standards, and requirements;

"(iii) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy, consistency, and timeliness of financial information;

"(iv) identify and make proposals to eliminate duplicative and unnecessary systems, including encouraging agencies to share systems which have sufficient capacity to perform the functions needed;

"(v) identify projects to bring existing systems into compliance with the applicable standards and requirements;

"(vi) contain milestones for equipment acquisitions and other actions necessary to implement the 5-year plan consistent with the requirements of this section;

"(vii) identify financial management personnel needs and actions to ensure those needs are met;

"(viii) include a plan for ensuring the annual audit of financial statements of executive agencies pursuant to section 3521(h) of this title; and

"(ix) estimate the costs of implementing the governmentwide 5-year plan.

"(4)(A) Not later than 15 months after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall submit the first financial management status report and governmentwide 5-year financial management plan under this subsection to the appropriate committees of the Congress.

"(B)(i) Not later than January 31 of each year thereafter, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress a financial management status report and a revised governmentwide 5-year financial management plan to cover the succeeding 5 fiscal years, including a report on the accomplishments of the executive branch in implementing the plan during the preceding fiscal year.

"(ii) The Director shall include with each revised governmentwide 5-year financial management plan a description of any substantive changes in the financial statement audit plan required by paragraph (3)(B)(viii), progress made by executive agencies in implementing the audit plan, and any improvements in Federal Government financial management related to preparation and audit of financial statements of executive agencies.

"(5) Not later than 30 days after receiving each annual report under section 902(a)(6) of this title, the Director shall transmit to the Chairman of the Committee on Government Operations of the House of Representatives and the Chairman of the Committee on Governmental Affairs of the Senate a final copy of that report and any comments on the report by the Director.".

(b) Clerical Amendment.—The table of contents at the beginning of chapter 35 of title 31, United States Code, is amended by striking the item relating to section 3512 and inserting the following:

"3512. Executive agency accounting and other financial management reports and plans.".

SEC. 302. CHIEF FINANCIAL OFFICERS COUNCIL.—(a) ESTABLISHMENT.—There is established a Chief Financial Officers Council, consisting of—

(1) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the council;

(2) the Controller of the Office of Federal Financial Management of the Office of Management and Budget;

(3) the Fiscal Assistant Secretary of Treasury; and

(4) each of the agency Chief Financial Officers appointed under section 901 of title 31, United States Code, as amended by this Act.

(b) FUNCTIONS.—The Chief Financial Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as consolidation and modernization of financial systems, improved quality of financial information, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matter.

SEC. 303. FINANCIAL STATEMENTS OF AGENCIES.—(a) PREPARATION OF FINANCIAL STATEMENTS.—

(1) In general.—Subchapter II of chapter 35 of title 31, United States Code, is amended by adding at the end the following:

"3515. Financial statements of agencies

"(a) Not later than March 31 of 1992 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(b) Each financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the revolving funds, trust funds, offices, bureaus, and activities covered by the statement, including assets and liabilities thereof;

"(2) results of operations of those revolving funds, trust funds, offices, bureaus, and activities;

"(3) cash flows or changes in financial position of those revolving funds, trust funds, offices, bureaus, and activities; and

"(4) a reconciliation to budget reports of the executive agency for those revolving funds, trust funds, offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting principles, standards, and requirements.

"(d) For purposes of this section, the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing of value for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.

"(e) Not later than March 31 of each year, the head of each executive agency designated by the President may prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering accounts of offices, bureaus, and activities of the agency in addition to those described in subsection (a).".

(2) EFFECTIVE DATE OF SUBSECTION.—Subsection (e) of section 3515 of title 31, United States Code, as added by paragraph (1), shall take effect on the date on which a resolution described in subsection (b)(1) of this section is passed by the Congress and approved by the President.

(3) WAIVER OF REQUIREMENT.—The Director of the Office of Management and Budget may, for fiscal year 1991, waive the application of section 3515(a) of title 31, United States Code, as amended by this subsection, with respect to any revolving fund, trust fund, or account of an executive agency.

(b) RESOLUTION APPROVING DESIGNATION OF AGENCIES.—

(1) RESOLUTION DESCRIBED.—A resolution referred to in subsection (a)(2) is a joint resolution the matter after the resolving clause of which is as follows: "That the Congress approves the executive agencies designated by the President pursuant to section 3515(e) of title 31, United States Code.".

(2) INTRODUCTION OF RESOLUTION.—No later than the first day of session following the day on which the President submits to the Congress a designation of executive agencies authorized to submit financial statements under section 3515(e) of title 31, United States Code, as added by subsection (a), a resolution as described in paragraph (1) shall be introduced (by request) in the House by the chairman of the Committee on Government Operations of the House of Representatives, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the

chairman of the Committee on Governmental Affairs of the Senate, or by a Member or Members of the Senate designated by such chairman.

(3) REFERRAL.—A resolution described in paragraph (1), shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same designation of executive agencies shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 60 calendar days of continuous session of the Congress following the date of such resolution's introduction.

(4) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution introduced pursuant to paragraph (2) (or, in the absence of such a resolution, the first resolution introduced with respect to the same designation of executive agencies) has not reported such resolution or identical resolution at the end of 60 calendar days of continuous session of the Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; VOTE ON FINAL PASSAGE.—(A) When the committee has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(C) Immediately following the conclusion of the debate on the resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appro-

priate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1), shall be decided without debate.

(E) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same designation of executive agencies from the other House, then—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(F) It shall not be in order in either the House of Representatives or the Senate to consider a resolution described in paragraph (1), or to consider any conference report on such a resolution, unless the Director of the Office of Management and Budget submits to the Congress a report under subsection (e).

(c) REPORT ON SUBSTANTIAL COMMERCIAL FUNCTIONS.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall determine and report to the Congress on which executive agencies or parts thereof perform substantial commercial functions for which financial statements can be prepared practicably under section 3515 of title 31, United States Code, as added by this section.

(d) PILOT PROJECT.—(1) Not later than March 31 of each of 1991, 1992, and 1993, the head of the Departments of Agriculture, Labor, and Veterans Affairs, the General Services Administration, and the Social Security Administration shall each prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or administration.

(2) Not later than March 31 of each of 1992 and 1993, the head of the Departments of Housing and Urban Development and the Army shall prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department.

(3) Not later than March 31, 1993, the head of the Department of the Air Force, the Internal Revenue Service, and the United States Customs Service, shall each prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or service.

(4) Each financial statement prepared under this subsection shall be audited in accordance with section 3521 (e), (f), (g), and (h) of title 31, United States Code.

(e) REPORT ON INITIAL FINANCIAL STATEMENTS.—Not later than June 30, 1993, the Director of the Office of Management and Budget shall report to the Congress on the financial statements prepared for fiscal years 1990, 1991, and 1992 under subsection (a) of section 3515 of title 31, United States Code (as added by subsection

(a) of this section) and under subsection (d) of this section. The report shall include analysis of—

(1) the accuracy of the data included in the financial statements;

(2) the difficulties each department and agency encountered in preparing the data included in the financial statements;

(3) the benefits derived from the preparation of the financial statements; and

(4) the cost associated with preparing and auditing the financial statements, including a description of any activities that were foregone as a result of that preparation and auditing.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3514 the following:

"3515. Financial statements of agencies.".

Sec. 304. FINANCIAL AUDITS OF AGENCIES.—(a) IN GENERAL.—Section 3521 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) Each financial statement prepared under section 3515 by an agency shall be audited in accordance with applicable generally accepted government auditing standards—

"(1) in the case of an agency having an Inspector General appointed under the Inspector General Act of 1978 (5 U.S.C. App.), by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

"(2) in any other case, by an independent external auditor, as determined by the head of the agency.

"(f) Not later than June 30 following the fiscal year for which a financial statement is submitted under section 3515 of this title by an agency, the person who audits the statement for purpose of subsection (e) shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(g) The Comptroller General of the United States—

"(1) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

"(2) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the agency which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General considers appropriate; and

"(3) may audit a financial statement prepared under section 3515 of this title at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this subsection shall be in lieu of the audit otherwise required by subsection (e) of this section. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

"(h) Each financial statement prepared by an executive agency for a fiscal year after fiscal year 1991 shall be audited in accord-

ance with this section and the plan required by section 3512(a)(3)(B)(viii) of this title.".

(b) WAIVER OF REQUIREMENTS.—The Director of the Office of Management and Budget may waive application of subsections (e) and (f) of section 3521 of title 31, United States Code, as amended by this section, to a financial statement submitted by an agency for fiscal years 1990 and 1991.

SEC. 305. FINANCIAL AUDITS OF GOVERNMENT CORPORATIONS.—Section 9105 of title 31, United States Code, is amended to read as follows:

"9105. Audits

"(a)(1) The financial statements of Government corporations shall be audited by the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or by an independent external auditor, as determined by the Inspector General or, if there is no Inspector General, by the head of the corporation.

"(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

"(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the head of the Government corporation, to the Chairman of the Committee on Government Operations of the House of Representatives, and to the Chairman of the Committee on Governmental Affairs of the Senate.

"(4) The Comptroller General of the United States—

"(A) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

"(B) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the Government corporation which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General of the United States considers appropriate; and

"(C) may audit a financial statement of a Government corporation at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this paragraph shall be in lieu of the audit otherwise required by paragraph (1) of this subsection. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

"(5) A Government corporation shall reimburse the Comptroller General of the United States for the full cost of any audit conducted by the Comptroller General under this subsection, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General of the United States shall be deposited in the Treasury as miscellaneous receipts.

"(b) Upon request of the Comptroller General of the United States, a Government corporation shall provide to the Comptroller General of the United States all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Government corporation and its auditor

that the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

"(c) Activities of the Comptroller General of the United States under this section are in lieu of any audit of the financial transactions of a Government corporation that the Comptroller General is required to make under any other law.".

SEC. 306. MANAGEMENT REPORTS OF GOVERNMENT CORPORATIONS.—(a) IN GENERAL.—Section 9106 of title 31, United States Code, is amended to read as follows:

§ "9106. Management reports

"(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

"(2) A management report under this subsection shall include—

"(A) a statement of financial position;

"(B) a statement of operations;

"(C) a statement of cash flows;

"(D) a reconciliation to the budget report of the Government corporation, if applicable;

"(E) a statement on internal accounting and administrative control systems by the head of the management of the corporation, consistent with the requirements for agency statements on internal accounting and administrative control systems under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97–255);

"(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

"(G) any other comments and information necessary to inform the Congress about the operations and financial condition of the corporation.

"(b) A Government corporation shall provide the President, the Director of the Office of Management and Budget, and the Comptroller General of the United States a copy of the management report when it is submitted to Congress.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 91 of title 31, United States Code, is amended by striking the item relating to section 9106 and inserting the following:

"9106. Management reports.".

SEC. 307. ADOPTION OF CAPITAL ACCOUNTING STANDARDS.—No capital accounting standard or principle, including any human capital standard or principle, shall be adopted for use in an executive department or agency until such standard has been reported to the Congress and a period of 45 days of continuous session of the Congress has expired.

Approved November 15, 1990

This Act has not been amended as of December 31, 1995.

Cash Management Improvement

Act Amendments of 1992

Public Law 102–589

(106 Stat. 5133)

AN ACT To amend the Cash Management Improvement Act of 1990 to provide adequate time for implementation of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101–453,
104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four" and inserting "Five".

SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following: "(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578) is extended through September 30, 1996.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

SEC. 5. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99–578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

November 10, 1992

This Act has not been amended as of December 31, 1995.

Government Performance and Results Act of 1993

Public Law 103–62

(107 Stat. 285)

AN ACT To provide for the establishment of strategic planning and performance measurement in the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Performance and Results Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) waste and inefficiency in Federal programs undermine the confidence of the American people in the Government and reduces the Federal Government's ability to address adequately vital public needs;

(2) Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance; and

(3) congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results.

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

(1) improve the confidence of the American people in the capability of the Federal Government, by systematically holding Federal agencies accountable for achieving program results;

(2) initiate program performance reform with a series of pilot projects in setting program goals, measuring program performance against those goals, and reporting publicly on their progress;

(3) improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction;

(4) help Federal managers improve service delivery, by requiring that they plan for meeting program objectives and by providing them with information about program results and service quality;

(5) improve congressional decisionmaking by providing more objective information on achieving statutory objectives, and on the relative effectiveness and efficiency of Federal programs and spending; and

(6) improve internal management of the Federal Government.

SEC. 3. STRATEGIC PLANNING.

Chapter 3 of title 5, United States Code, is amended by adding after section 305 the following new section:

"§ 306. Strategic Plans

"(a) No later than September 30, 1997, the head of each agency shall submit to the Director of the Office of Management and Budget and to the Congress a strategic plan for program activities. Such plan shall contain—

"(1) a comprehensive mission statement covering the major functions and operations of the agency;

"(2) general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the agency;

"(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

"(4) a description of how the performance goals included in the plan required by section 1115(a) of title 31 shall be related to the general goals and objectives in the strategic plan;

"(5) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

"(6) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

"(b) The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

"(c) The performance plan required by section 1115 of title 31 shall be consistent with the agency's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

"(d) When developing a strategic plan, the agency shall consult with the Congress, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan.

"(e) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of strategic plans under this section shall be performed only by Federal employees.

"(f) For purposes of this section the term 'agency' means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the Postal Rate Commission.".

SEC. 4. ANNUAL PERFORMANCE PLANS AND REPORTS.

(a) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(29) beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.".

(b) PERFORMANCE PLANS AND REPORTS.—Chapter 11 of title 31, United States Code, is amended by adding after section 1114 the following new sections:

"§ 1115. Performance plans

"(a) In carrying out the provisions of section 1105(a)(29), the Director of the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

"(1) establish performance goals to define the level of performance to be achieved by a program activity;

"(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (b);

"(3) briefly describe the operational processes, skills and technology, and the human, capital, information, or other resources required to meet the performance goals;

"(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

"(5) provide a basis for comparing actual program results with the established performance goals; and

"(6) describe the means to be used to verify and validate measured values.

"(b) If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

"(1) include separate descriptive statements of—

"(A)(i) a minimally effective program, and

"(ii) a successful program, or

"(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

"(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

"(c) For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

"(d) An agency may submit with its annual performance plan an appendix covering any portion of the plan that—

"(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

"(2) is properly classified pursuant to such Executive order.

"(e) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of per-

formance plans under this section shall be performed only by Federal employees.

"(f) For purposes of this section and sections 1116 through 1119, and sections 9703 and 9704 the term—

"(1) 'agency' has the same meaning as such term is defined under section 306(f) of title 5;

"(2) 'outcome measure' means an assessment of the results of a program activity compared to its intended purpose;

"(3) 'output measure' means the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

"(4) 'performance goal' means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

"(5) 'performance indicator' means a particular value or characteristic used to measure output or outcome;

"(6) 'program activity' means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

"(7) 'program evaluation' means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.

"§ 1116. Program performance reports

"(a) No later than March 31, 2000, and no later than March 31 of each year thereafter, the head of each agency shall prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

"(b)(1) Each program performance report shall set forth the performance indicators established in the agency performance plan under section 1115, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

"(2) If performance goals are specified in an alternative form under section 1115(b), the results of such program shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

"(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

"(d) Each report shall—

"(1) review the success of achieving the performance goals of the fiscal year;

"(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals in the fiscal year covered by the report;

"(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful pro-

gram activity under section 1115(b)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

"(A) why the goal was not met;

"(B) those plans and schedules for achieving the established performance goal; and

"(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

"(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title; and

"(5) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

"(e) An agency head may include all program performance information required annually under this section in an annual financial statement required under section 3515 if any such statement is submitted to the Congress no later than March 31 of the applicable fiscal year.

"(f) The functions and activities of this section shall be considered to be inherently Governmental functions. The drafting of program performance reports under this section shall be performed only by Federal employees.

"§ 1117. Exemption

"The Director of the Office of Management and Budget may exempt from the requirements of sections 1115 and 1116 of this title and section 306 of title 5, any agency with annual outlays of $20,000,000 or less.".

SEC. 5. MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.

(a) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Chapter 97 of title 31, United States Code, is amended by adding after section 9702, the following new section:

"§ 9703. Managerial accountability and flexibility

"(a) Beginning with fiscal year 1999, the performance plans required under section 1115 may include proposals to waive administrative procedural requirements and controls, including specification of personnel staffing levels, limitations on compensation or remuneration, and prohibitions or restrictions on funding transfers among budget object classification 20 and subclassifications 11, 12, 31, and 32 of each annual budget submitted under section 1105, in return for specific individual or organization accountability to achieve a performance goal. In preparing and submitting the performance plan under section 1105(a)(29), the Director of the Office of Management and Budget shall review and may approve any proposed waivers. A waiver shall take effect at the beginning of the fiscal year for which the waiver is approved.

"(b) Any such proposal under subsection (a) shall describe the anticipated effects on performance resulting from greater managerial or organizational flexibility, discretion, and authority, and shall quantify the expected improvements in performance resulting from any waiver. The expected improvements shall be compared to current actual performance, and to the projected level of performance that would be achieved independent of any waiver.

"(c) Any proposal waiving limitations on compensation or remuneration shall precisely express the monetary change in compensation or remuneration amounts, such as bonuses or awards, that shall result from meeting, exceeding, or failing to meet performance goals.

"(d) Any proposed waiver of procedural requirements or controls imposed by an agency (other than the proposing agency or the Office of Management and Budget) may not be included in a performance plan unless it is endorsed by the agency that established the requirement, and the endorsement included in the proposing agency's performance plan.

"(e) A waiver shall be in effect for one or two years as specified by the Director of the Office of Management and Budget in approving the waiver. A waiver may be renewed for a subsequent year. After a waiver has been in effect for three consecutive years, the performance plan prepared under section 1115 may propose that a waiver, other than a waiver of limitations on compensation or remuneration, be made permanent.

"(f) For purposes of this section, the definitions under section 1115(f) shall apply.".

SEC. 6. PILOT PROJECTS.

(a) PERFORMANCE PLANS AND REPORTS.—Chapter 11 of title 31, United States Code, is amended by inserting after section 1117 (as added by section 4 of this Act) the following new section:

"§ 1118. Pilot projects for performance goals

"(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than ten agencies as pilot projects in performance measurement for fiscal years 1994, 1995, and 1996. The selected agencies shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

"(b) Pilot projects in the designated agencies shall undertake the preparation of performance plans under section 1115, and program performance reports under section 1116, other than section 1116(c), for one or more of the major functions and operations of the agency. A strategic plan shall be used when preparing agency performance plans during one or more years of the pilot period.

"(c) No later than May 1, 1997, the Director of the Office of Management and Budget shall submit a report to the President and to the Congress which shall—

"(1) assess the benefits, costs, and usefulness of the plans and reports prepared by the pilot agencies in meeting the purposes of the Government Performance and Results Act of 1993;

"(2) identify any significant difficulties experienced by the pilot agencies in preparing plans and reports; and

"(3) set forth any recommended changes in the requirements of the provisions of Government Performance and Results Act of 1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, 1119 and 9703 of this title, and this section.".

(b) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Chapter 97 of title 31, United States Code, is amended by inserting after sec-

tion 9703 (as added by section 5 of this Act) the following new section:

"§ 9704. Pilot projects for managerial accountability and flexibility

"(a) The Director of the Office of Management and Budget shall designate not less than five agencies as pilot projects in managerial accountability and flexibility for fiscal years 1995 and 1996. Such agencies shall be selected from those designated as pilot projects under section 1118 and shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

"(b) Pilot projects in the designated agencies shall include proposed waivers in accordance with section 9703 for one or more of the major functions and operations of the agency.

"(c) The Director of the Office of Management and Budget shall include in the report to the President and to the Congress required under section 1118(c)—

"(1) an assessment of the benefits, costs, and usefulness of increasing managerial and organizational flexibility, discretion, and authority in exchange for improved performance through a waiver; and

"(2) an identification of any significant difficulties experienced by the pilot agencies in preparing proposed waivers.

"(d) For purposes of this section the definitions under section 1115(f) shall apply.".

(c) PERFORMANCE BUDGETING.—Chapter 11 of title 31, United States Code, is amended by inserting after section 1118 (as added by section 6 of this Act) the following new section:

"§ 1119. Pilot projects for performance budgeting

"(a) The Director of the Office of Management and Budget, after consultation with the head of each agency shall designate not less than five agencies as pilot projects in performance budgeting for fiscal years 1998 and 1999. At least three of the agencies shall be selected from those designated as pilot projects under section 1118, and shall also reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

"(b) Pilot projects in the designated agencies shall cover the preparation of performance budgets. Such budgets shall present, for one or more of the major functions and operations of the agency, the varying levels of performance, including outcome-related performance, that would result from different budgeted amounts.

"(c) The Director of the Office of Management and Budget shall include, as an alternative budget presentation in the budget submitted under section 1105 for fiscal year 1999, the performance budgets of the designated agencies for this fiscal year.

"(d) No later than March 31, 2001, the Director of the Office of Management and Budget shall transmit a report to the President and to the Congress on the performance budgeting pilot projects which shall—

"(1) assess the feasibility and advisability of including a performance budget as part of the annual budget submitted under section 1105;

"(2) describe any difficulties encountered by the pilot agencies in preparing a performance budget;

"(3) recommend whether legislation requiring performance budgets should be proposed and the general provisions of any legislation; and

"(4) set forth any recommended changes in the other requirements of the Government Performance and Results Act of 1993, section 306 of title 5, sections 1105, 1115, 1116, 1117, and 9703 of this title, and this section.

"(e) After receipt of the report required under subsection (d), the Congress may specify that a performance budget be submitted as part of the annual budget submitted under section 1105.".

SEC. 7. UNITED STATES POSTAL SERVICE.

Part III of title 39, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 28—STRATEGIC PLANNING AND PERFORMANCE MANAGEMENT

"Sec.
"2801. ..... Definitions.
"2802. ..... Strategic plans.
"2803. ..... Performance plans.
"2804. ..... Program performance reports.
"2805. ..... Inherently Governmental functions.

"§ 2801. Definitions

"For purposes of this chapter the term—

"(1) 'outcome measure' refers to an assessment of the results of a program activity compared to its intended purpose;

"(2) 'output measure' refers to the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

"(3) 'performance goal' means a target level of performance expressed as a tangible, measurable objective, against which actual achievement shall be compared, including a goal expressed as a quantitative standard, value, or rate;

"(4) 'performance indicator' refers to a particular value or characteristic used to measure output or outcome;

"(5) 'program activity' means a specific activity related to the mission of the Postal Service; and

"(6) 'program evaluation' means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Postal Service programs achieve intended objectives.

"§ 2802. Strategic plans.

"(a) No later than September 30, 1997, the Postal Service shall submit to the President and the Congress a strategic plan for its program activities. Such plan shall contain—

"(1) a comprehensive mission statement covering the major functions and operations of the Postal Service;

"(2) general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the Postal Service;

"(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

"(4) a description of how the performance goals included in the plan required under section 2803 shall be related to the general goals and objectives in the strategic plan;

"(5) an identification of those key factors external to the Postal Service and beyond its control that could significantly affect the achievement of the general goals and objectives; and

"(6) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

"(b) The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

"(c) The performance plan required under section 2803 shall be consistent with the Postal Service's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

"(d) When developing a strategic plan, the Postal Service shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan, and shall advise the Congress of the contents of the plan.

"§ 2803. Performance plans.

"(a) The Postal Service shall prepare an annual performance plan covering each program activity set forth in the Postal Service budget, which shall be included in the comprehensive statement presented under section 2401(g) of this title. Such plan shall—

"(1) establish performance goals to define the level of performance to be achieved by a program activity;

"(2) express such goals in an objective, quantifiable, and measurable form unless an alternative form is used under subsection (b);

"(3) briefly describe the operational processes, skills and technology, and the human, capital, information, or other resources required to meet the performance goals;

"(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

"(5) provide a basis for comparing actual program results with the established performance goals; and

"(6) describe the means to be used to verify and validate measured values.

"(b) If the Postal Service determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Postal Service may use an alternative form. Such alternative form shall—

"(1) include separate descriptive statements of—

"(A) a minimally effective program, and

"(B) a successful program, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of either description; or

"(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

"(c) In preparing a comprehensive and informative plan under this section, the Postal Service may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation.

"(d) The Postal Service may prepare a non-public annex to its plan covering program activities or parts of program activities relating to—

"(1) the avoidance of interference with criminal prosecution; or

"(2) matters otherwise exempt from public disclosure under section 410(c) of this title.

"§ 2804. Program performance reports.

"(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section 2401(g) of this title.

"(b)(1) The program performance report shall set forth the performance indicators established in the Postal Service performance plan, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

"(2) If performance goals are specified by descriptive statements of a minimally effective program activity and a successful program activity, the results of such program shall be described in relationship to those categories, including whether the performance failed to meet the criteria of either category.

"(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

"(d) Each report shall—

"(1) review the success of achieving the performance goals of the fiscal year;

"(2) evaluate the performance plan for the current fiscal year relative to the performance achieved towards the performance goals in the fiscal year covered by the report;

"(3) explain and describe, where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 2803(b)(2))—

"(A) why the goal was not met;

"(B) those plans and schedules for achieving the established performance goal; and

"(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended; and

"(4) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

"§ 2805. Inherently Governmental functions.

"The functions and activities of this chapter shall be considered to be inherently Governmental functions. The drafting of strategic plans, performance plans, and program performance reports under this section shall be performed only by employees of the Postal Service.".

SEC. 8. CONGRESSIONAL OVERSIGHT AND LEGISLATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a performance goal. Any such action shall have the effect of superseding that goal in the plan submitted under section 1105(a)(29) of title 31, United States Code.

(b) GAO REPORT.—No later than June 1, 1997, the Comptroller General of the United States shall report to Congress on the implementation of this Act, including the prospects for compliance by Federal agencies beyond those participating as pilot projects under sections 1118 and 9704 of title 31, United States Code.

SEC. 9. TRAINING.

The Office of Personnel Management shall, in consultation with the Director of the Office of Management and Budget and the Comptroller General of the United States, develop a strategic planning and performance measurement training component for its management training program and otherwise provide managers with an orientation on the development and use of strategic planning and program performance measurement.

SEC. 10. APPLICATION OF ACT.

No provision or amendment made by this Act may be construed as—

(1) creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person who is not an officer or employee of the United States acting in such capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act; or

(2) superseding any statutory requirement, including any requirement under section 553 of title 5, United States Code.

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—The table of sections for chapter 3 of title 5, United States Code, is amended by adding after the item relating to section 305 the following:

"306. Strategic plans.".

(b) AMENDMENTS TO TITLE 31, UNITED STATES CODE.—

(1) AMENDMENT TO CHAPTER 11.—The table of sections for chapter 11 of title 31, United States Code, is amended by adding after the item relating to section 1114 the following:

"1115. Performance plans.

"1116. Program performance reports.

"1117. Exemptions.
"1118. Pilot projects for performance goals.
"1119. Pilot projects for performance budgeting.".

(2) AMENDMENT TO CHAPTER 97.—The table of sections for chapter 97 of title 31, United States Code, is amended by adding after the item relating to section 9702 the following:

"9703. Managerial accountability and flexibility.
"9704. Pilot projects for managerial accountability and flexibility.".

(c) AMENDMENT TO TITLE 39, UNITED STATES CODE.—The table of chapters for part III of title 39, United States Code, is amended by adding at the end thereof the following new item:

"28. Strategic planning and performance management 2801".

August 3, 1993.

This Act has not been amended as of December 31, 1995.

GOVERNMENT MANAGEMENT REFORM ACT OF 1994

Public Law 103–356

(108 Stat. 3410)

AN ACT To provide a more effective, efficient, and responsive Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.—(a) SHORT TITLE.—This Act may be cited as the "Government Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 1. Short title and table of contents.

TITLE I—LIMITATION ON PAY

SEC. 101. Limitation on certain annual pay adjustments.

TITLE II—HUMAN RESOURCE MANAGEMENT

SEC. 201. SES annual leave accumulation.

TITLE III—STREAMLINING MANAGEMENT CONTROL

SEC. 301. Authority to increase efficiency in reporting to Congress.

TITLE IV—FINANCIAL MANAGEMENT

SEC. 401. Short title.
SEC. 402. Electronic payments.
SEC. 403. Franchise fund pilot programs.
SEC. 404. Simplification of management reporting process.
SEC. 405. Annual financial reports.

TITLE I—LIMITATION ON PAY

SEC. 101. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.—Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking out "(2) Effective" and inserting in lieu thereof "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end thereof the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking out "Effective" and inserting in lieu thereof "Subject to subsection (b), effective"; and

(C) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking out "Effective" and inserting in lieu thereof "(a) Subject to subsection (b), effective"; and

(B) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule."; and

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking out "(a) Effective" and inserting in lieu thereof "(a)(1) Subject to paragraph (2), effective"

(B) by adding at the end thereof the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.".

TITLE II—HUMAN RESOURCE MANAGEMENT

SEC. 201. SES ANNUAL LEAVE ACCUMULATION.—(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning after the date of the enactment of this Act, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'.".

(b) USE OF EXCESS LEAVE.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

TITLE III—STREAMLINING MANAGEMENT CONTROL

SEC. 301. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.—(a) PURPOSE.—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

(c) RECOMMENDATIONS.—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) CONSULTATION.—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

TITLE IV—FINANCIAL MANAGEMENT

SEC. 401. SHORT TITLE.—This title may be cited as the "Federal Financial Management Act of 1994".

SEC. 402. ELECTRONIC PAYMENTS.—(a) IN GENERAL.—Section 3332 of title 31, United States Code, is amended to read as follows:

"§ 3332. Required direct deposit.

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit.".

SEC. 403. FRANCHISE FUND PILOT PROGRAMS.—(a) ESTABLISHMENT.—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) USES.—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agen-

cy and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

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

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

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

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

(1) the structure of the fund;

(2) the composition of the funding mechanism;

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

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

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

(f) TERMINATION.—The provisions of this section shall expire on October 1, 1999.

SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.—(a) IN GENERAL.—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

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

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

(b) APPLICATION.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

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

(1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations; and

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

SEC. 405. ANNUAL FINANCIAL REPORTS.—(a) FINANCIAL STATEMENTS.—Section 3515 of title 31, United States Code, is amended to read as follows:

"§ 3515. Financial statements of agencies.

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

"(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

"(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

"(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.".

(b) AUDITS BY AGENCIES.—Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.".

(c) GOVERNMENTWIDE FINANCIAL STATEMENT.—Section 331 of title 31, United States Code, is amended by adding the following new subsection:

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

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

October 13, 1994*

*This Act has not been amended as of December 31, 1995.

APPENDIX I
A BRIEF EXPLANATION
OF THE
UNITED STATES CODE

THE UNITED STATES CODE

The United States Code (Code or U.S.C.) is divided into 50 major parts, called titles, by subject matter. The names of the 50 titles appear at the end of this appendix. Each title is subdivided into several categories and the most commonly used categories are chapters and sections. The chapters in each title are identified by subject matter and sequential numbers. However, the numbers in the series may be omitted. Each sequential section within a chapter contains the chapter number followed by the sequential number of the section.[17]

SECTIONS OF THE CODE CONTAINED IN THIS REPORT

This report consists primarily of selected provisions from Title 31, "Money and Finance," since this title contains most of the laws related to financial management. The provisions cover, among other subjects, the roles and responsibilities of governmental agencies involved in financial management (including agency Chief Financial Officers); the congressional fiscal and budget process; appropriations and appropriation accounting; the public debt; depositing, keeping and paying money; accounting and collection; claims process; prompt payment; and requirements for the single audit.

This report also includes selected sections from eight other titles of the Code in addition to Title 31. Selected provisions of these other titles provide further requirements of congressional budget and fiscal operations and governmental functions and processes relating to financial management. The codified laws included in this report were taken from the Code as of December 31, 1995. These eight titles are:

Title 1, "General Provisions,"
Title 2, "The Congress,"
Title 5, "Government Organization and Employees,"
Title 15, "Commerce and Trade,"
Title 39, "Postal Service,"
Title 40, "Public Buildings, Property and Works,"
Title 41, "Public Contracts," and
Title 44, "Public Printing and Documents."

ACTS INCLUDED IN THIS REPORT

This report also includes the recently enacted, but not yet codified, Debt Collection Improvement Act of 1996 and the Single Audit Act Amendments of 1996, because of their direct relationship to financial management. Further, 11 major laws dealing with financial management, although included in the provisions of the Code in

[17] For example, Title 31, "Money and Finance," Chapter 35, "Accounting and Collection," section 3511, "Prescribing Accounting Requirements and Developing Accounting Systems" is generally referred to or cited as "31 U.S.C. 3511."

this report, also appear as originally enacted to provide users a historical perspective.

STATUTES AND PUBLIC LAWS

Officially enacted laws are bound in volumes (referred to as "Statutes at Large") in chronological order of enactment. When citing a particular law, the volume number followed by the designation of "Stat." (statute), followed by the page number of the volume is used. For example, the Chief Financial Officers Act of 1990, would be cited as "104 Stat. 2838," meaning the 104th volume of the statutes at large, page 2,838.

Beginning in 1957, laws have been assigned Public law numbers. The public law number contains two numbers separated by a dash. The first number indicates the Congress and the second number indicates the law number. For example, the Chief Financial Officers Act of 1990, is Public Law 101–576; the first number indicating the 101st Congress and the second the law number.

Prior to 1957, statute citations usually included a chapter number. For example, the Budget and Accounting Act of 1921, is cited as "Chapter 18, 42 Stat. 20."

TITLES OF THE UNITED STATES CODE

1. General Provisions.
2. The Congress.
3. The President.
4. Flag and Seal, Seat of Government, and the States.
5. Government Organization and Employees
6. Surety Bonds (See Title 31, Money and Finance).
7. Agriculture.
8. Aliens and Nationality.
9. Arbitration.
10. Armed Forces.
11. Bankruptcy.
12. Banks and Banking.
13. Census.
14. Coast Guard.
15. Commerce and Trade.
16. Conservation.
17. Copyrights.
18. Crimes and Criminal Procedure.
19. Customs Duties.
20. Education.
21. Food and Drugs.
22. Foreign Relations and Intercourse.
23. Highways.
24. Hospitals and Asylums.
25. Indians.
26. Internal Revenue Code.
27. Intoxicating Liquors.
28. Judiciary and Judicial Procedure.
29. Labor.
30. Minerals and Mining.
31. Money and Finance
32. National Guard.
33. Navigation and Navigable Waters.
34. Navy (See Title 10, Armed Forces).
35. Patents.
36. Patriotic Societies and Observances.
37. Pay and Allowances of the Uniformed Services.
38. Veterans' Benefits.
39. Postal Service.
40. Public Buildings, Property, and Works.
41. Public Contracts.
42. The Public Health and Welfare.
43. Public Lands.
44. Public Printing and Documents.
45. Railroads.
46. Shipping.
47. Telegraphs, Telephones, and Radiotelegraphs.
48. Territories and Insular Possessions.
49. Transportation.
50. War and National Defense.

APPENDIX II
A BRIEF EXPLANATION
OF THE
CODE OF FEDERAL REGULATIONS

THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations (C.F.R.) is a codification of the general and permanent rules issued mostly by executive departments and agencies of the federal government. The C.F.R., published by the Director of the *Federal Register*, is a special edition of the *Federal Register* containing a compilation of federal regulations.

The C.F.R. is divided into 50 parts called titles (48 active, two reserved). The titles are listed on the following page. They represent broad areas subject to federal regulation.[18] Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas. The parts are numbered sequentially throughout the title.[19]

The C.F.R. and the individual issues of the *Federal Register* (after the latest revision of the C.F.R.) provide the latest version of any given rule. Each title of the C.F.R., which is contained in one or two separate volumes, is revised at least once each calendar year.

The C.F.R. citations in this report are taken from the "C.F.R. Index and Finding Aids," revised as of January 1, 1995. The C.F.R. citations, where applicable, appear at the end of each chapter of the United States Code included in this report, with the section of the Code listed sequentially followed by the applicable C.F.R. citation(s). Of the 48 active titles of the C.F.R., 42 titles are cited in this report.

[18] Although the C.F.R. contains 50 titles, as does the Code, it is organized differently from the Code. Consequently, requirements related to a specific subject matter covered in one section of the Code may appear in several titles of the C.F.R.

[19] The C.F.R. citation contains the number of the title followed by the abbreviation "C.F.R.," followed by the part number; such as 31 C.F.R. 333.

TITLES OF THE CODE OF FEDERAL REGULATIONS

1. General Provisions.
2. (Reserved).
3. The President.
4. Accounts.
5. Administrative Personnel.
6. (Reserved).
7. Agriculture.
8. Aliens and Nationality.
9. Animals and Animal Products.
10. Energy.
11. Federal Elections.
12. Banks and Banking.
13. Business Credit and Assistance.
14. Aeronautics and Space.
15. Commerce and Foreign Trade.
16. Commercial Practices.
17. Commodity and Securities Exchanges.
18. Conservation of Power and Water Resources.
19. Customs Duties.
20. Employees' Benefits.
21. Food and Drugs.
22. Foreign Relations.
23. Highways.
24. Housing and Urban Development.
25. Indians.
26. Internal Revenue.
27. Alcohol, Tobacco Products and Firearms.
28. Judicial Administration.
29. Labor.
30. Mineral Resources.
31. Money and Finance: Treasury.
32. National Defense.
33. Navigation and Navigable Waters.
34. Education.
35. Panama Canal.
36. Parks, Forests, and Public Property.
37. Patents, Trademarks, and Copyrights.
38. Pensions, Bonuses, and Veterans' Relief.
39. Postal Service.
40. Protection of Environment.
41. Public Contracts and Property Management.
42. Public Health.
43. Public Lands: Interior.
44. Emergency Management Assistance.
45. Public Welfare.
46. Shipping.
47. Telecommunication.
48. Federal Acquisition Regulations System.
49. Transportation.
50. Wildlife and Fisheries.

APPENDIX III
FINANCIAL MANAGEMENT ISSUANCES
OF THE
GENERAL ACCOUNTING OFFICE

The General Accounting Office

The General Accounting Office (GAO) was established by the Budget and Accounting Act of 1921 (31 U.S.C. 702) to independently audit Government agencies. The Office is under the control and direction of the Comptroller General of the United States who is appointed by the President with the advice and consent of the Senate for a term of 15 years. GAO is an investigative arm of the Congress and is charged with examining all matters relating to the receipt and disbursement of public funds. GAO's primary role is to ensure that the Congress has available for its use current, accurate, and complete financial management data. GAO also prescribes accounting principles and standards for the executive branch; advises other federal agencies on fiscal and related policies and procedures; and prescribes standards for auditing and evaluating Government programs.

This appendix is divided into two parts. The first contains a description of GAO's issuances and the second contains a cross-index listing of the sections of the Code in sequential order followed by the related GAO issuance.

Description of Issuances

The primary sources of requirements and guidelines issued by GAO related to financial management are contained in the *Policy and Procedures Manual* and *Government Auditing Standards* as explained below.

Policy Manual

The GAO *Policy and Procedures Manual for Guidance of Federal Agencies* contains the requirements agencies are to follow in accounting, internal controls, and related financial management subjects. The manual is divided into eight major parts called titles. The titles applicable to the Code in this report on financial management follow.

Title 2, "Accounting." This title contains the accounting, accounting system, and internal control principles, standards, and related requirements.

Appendix I, "Principles and Standards"	31 U.S.C. 3511. 31 U.S.C. 3512(c). 31 U.S.C. 3512(d).
Appendix II, "Internal Control Standards"	31 U.S.C. 3511. 31 U.S.C. 3512(b).
Appendix III, "Accounting Systems Standards"	31 U.S.C. 3511.

Title 6, "Pay, Leave, and Allowances." This title contains the internal control and related requirements pertaining to time and attendance and payroll. (31 U.S.C. 3511)

Title 7, "Fiscal Procedures." This title contains internal controls and related requirements pertaining to receipt and payment of funds and recording, using, and reporting budget authority. (31 U.S.C. 3511)

Copies of the GAO *Policy and Procedures Manual* can be obtained in Room 1100, 700 4th Street NW, U.S. General Accounting Office, Washington, DC 20548, (202) 512–6000.

Auditing Standards

The *Government Auditing Standards* (also called the "Yellow Book") contains the standards for audits of government organizations, programs, activities, and functions, and of government assistance received by contractors, nonprofit organizations, and other nongovernment organizations. These standards, often referred to as generally accepted government auditing standards (GAGAS), are to be followed by auditors and audit organizations when required by law, regulation, agreement, or policy. The standards pertain to auditors' professional qualifications, the quality of the audit effort, and the characteristics of professional and meaningful audit reports.

5 U.S.C. App. 3, Section 4; 31 U.S.C. 713; 31 U.S.C. 714; 31 U.S.C. 3523; 31 U.S.C. 7501; 31 U.S.C. 7503; and 31 U.S.C. 7505.

Copies of the *Government Auditing Standards: 1994 Revision*, (GAO/OCG–94–4) is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401. The stock number is 020–000–00–265–4.

CROSS-INDEX OF THE SECTIONS OF THE CODE FOLLOWED BY GAO ISSUANCES

5 U.S.C. App. 3, Section 3	Government Auditing Standards: 1994 Revision.
31 U.S.C. 713	Government Auditing Standards: 1994 Revision.
31 U.S.C. 714	Government Auditing Standards: 1994 Revision.
31 U.S.C. 3511	Policy and Procedures Manual, Title 2, Appendix I.
31 U.S.C. 3511	Policy and Procedures Manual, Title 2, Appendix II.
31 U.S.C. 3511	Policy and Procedures Manual, Title 2, Appendix III.
31 U.S.C. 3511	Policy and Procedures Manual, Title 6.
31 U.S.C. 3511	Policy and Procedures Manual, Title 7.
31 U.S.C. 3512(b)	Policy and Procedures Manual, Title 2, Appendix II.
31 U.S.C. 3512(c)	Policy and Procedures Manual, Title 2, Appendix I.
31 U.S.C. 3512(d)	Policy and Procedures Manual, Title 2, Appendix I.
31 U.S.C. 3523	Government Auditing Standards: 1994 Revision.
31 U.S.C. 7501	Government Auditing Standards: 1994 Revision.
31 U.S.C. 7503	Government Auditing Standards: 1994 Revision.

31 U.S.C. 7505	Government Auditing Standards: 1994 Revision.

APPENDIX IV
FINANCIAL MANAGEMENT ISSUANCES
OF THE
OFFICE OF MANAGEMENT AND BUDGET

THE OFFICE OF MANAGEMENT AND BUDGET

The Office of Management and Budget (OMB), formerly the Bureau of the Budget, was established in the Executive Office of the President pursuant to Reorganization Plan No. 1 of 1939 (5 U.S.C. app.). The Office is headed by the Director, who is appointed by the President and confirmed by the Senate. OMB evaluates, formulates, and coordinates management procedures and program objectives within and among federal departments and agencies. The Office's primary fiscal responsibilities include: assisting the President in preparing the Budget and formulating the federal government's fiscal program; supervising the control of the budgetary administration of the Executive Branch; and establishing and overseeing the implementation of financial management policies and requirements for the federal government.

This appendix is divided into two parts. The first contains a description of the OMB's issuances pertaining to financial management requirements and the second contains a listing of the Code's section with the related OMB issuance.

DESCRIPTION OF ISSUANCES

The primary issuances of OMB related to financial management requirements are its Circulars and Bulletins.

Circulars, identified by the letter "A" and containing a sequential number in the order of issuance, are used when the nature of the subject matter is of continuing use. Between 1952 and December 31, 1995, OMB issued 135 Circulars. Of the 135, 98 have been superseded or rescinded, leaving 37 still applicable. Of the 37, 18 pertain to the financial management requirements relating to the sections of the Code contained in this report. The applicable 18 are listed below.

Number	Contents	U.S.C. Cite
A–11	Preparation and submission of budget estimates with emphasis on the preparation of program performance information Revised June 1995.	5 U.S.C. 306, 31 U.S.C. 1105, 31 U.S.C. 1115, 31 U.S.C. 1116, 31 U.S.C. 1117, 31 U.S.C. 1118, 31 U.S.C. 1119, 31 U.S.C. 9703, 31 U.S.C. 9704, 39 U.S.C. 2801, 39 U.S.C. 2802, 39 U.S.C. 2803.
A–21	Cost Principles for Educational Institutions. Revised 5–8–96.	31 U.S.C. 503, 41 U.S.C. 422.
A–25	User Charges. Guidelines for Federal agencies for assessing fees for Government Services and for the sale and use of government property and resources. Revised 7–8–93.	31 U.S.C. 1111, 31 U.S.C. 9701.

Number	Contents	U.S.C. Cite
A–34	Instructions on Budget Execution, monitoring Federal Outlays, obtaining exemptions from GAO access to records, reporting requirements for unvouchered expenditures, closing accounts, and monitoring Federal employment. Revised 10–18–94.	31 U.S.C. 1321, 31 U.S.C. 1322, 31 U.S.C. 1323, 31 U.S.C. 1324, 31 U.S.C. 1511, 31 U.S.C. 1512, 31 U.S.C. 1513, 31 U.S.C. 1514, 31 U.S.C. 1515, 31 U.S.C. 1516, 31 U.S.C. 1517, 31 U.S.C. 1518, 31 U.S.C. 1519, 31 U.S.C. 1551, 31 U.S.C. 1552, 31 U.S.C. 1553, 31 U.S.C. 1554, 31 U.S.C. 1555, 31 U.S.C. 1556, 31 U.S.C. 1557, 31 U.S.C. 3524.
A–50	Audit follow-up. Policies and procedures for use by executive agencies for following up on audit reports issued by, GAO, OIG community, and other executive branch audit organizations. Revised 9–29–82.	31 U.S.C. 720, 31 U.S.C. 3302, 31 U.S.C. 3711, 31 U.S.C. 3716, 31 U.S.C. 3717, 31 U.S.C. 3728.
A–73	Policies to be Followed in the Audit of Federal Operations and Programs. Revised 6–20–83.	31 U.S.C. 503, 31 U.S.C. 1111.
A–87	Principles and Standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State, Local, and Indian Tribal Governments. Revised 5–4–95.	31 U.S.C. 503, 31 U.S.C. 1112.
A–94	Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs. Issued 2–25–93.	31 U.S.C. 1111.
A–102	Establishment of consistency and uniformity among Federal agencies in the management of grants and cooperative agreements with state, local, and Federally recognized Indian tribal governments. Revised 10–7–94.	31 U.S.C. 503.
A–110	Establishment of uniform administrative requirements among Federal agencies in the administration of grants to and agreements with institutions of higher education, hospitals, and other non-profit organizations. Revised 11–19–93.	31 U.S.C. 503, 31 U.S.C. 1111.
A–122	Establishment of cost principles for determining costs of Federal grants, contracts, and other agreements with non-profit organizations. Revised 9–29–95.	31 U.S.C. 1111.
A–123	Guidance to Federal managers on improving the accountability and effectiveness of Federal programs and operations by establishing, assessing, correcting, and reporting on management controls (Internal Control Systems). Revised 6–21–95.	31 U.S.C. 3512.
A–125	Prompt Payments. Prescribed policies and procedures in paying for property and services acquired under Federal contracts pursuant to the Prompt Payment Act of 1982, (as amended), and for entitlement payments under the Agricultural Act of 1949. Revised 12–12–89.	31 U.S.C. 3903a.
A–127	Financial Management Systems. Prescribed policies and standards for developing, operating, evaluating, and reporting on financial management systems. Revised 7–23–93.	31 U.S.C. 1105, 31 U.S.C. 1113, 31 U.S.C. 3512.

Number	Contents	U.S.C. Cite
A–128	Audits of State and Local Governments. Audit requirements for State and local governments that receive Federal aid and definition of Federal responsibilities for implementing and monitoring audits. Issued 4–12–85.	31 U.S.C. 7505.
A–129	Policies for Federal credit programs and nontax receivables. Prescribed policies and procedures for justifying, designing, budgeting, and managing Federal credit programs. Revised 1–11–93.	2 U.S.C. 661, 31 U.S.C. 902(a), 31 U.S.C. 1105a, 31 U.S.C. 1108, 31 U.S.C. 3719, 31 U.S.C. 3720.
A–133	Audits of institutions of higher education and other non-profit institutions. Definition of Federal responsibilities for implementing and monitoring audit requirements for institutions of higher education and other nonprofit institutions receiving Federal awards. Issued 3–8–90.	31 U.S.C. 1104, 31 U.S.C. 1111.
A–134	Financial Accounting Principles and Standards. Establishment of policies and procedures for approving and publishing financial accounting principles, standards, and interpretations. Issued 5–20–93.	31 U.S.C. 3511.

Bulletins, numbered in chronological order by fiscal year, are used when the nature of the subject matter requires only a single action by agencies or is transitory in nature. The following four Bulletins in effect as of December 31, 1995 are applicable to financial management requirements:

Number	Contents	U.S.C. Cite
93–06	Audit Requirements for Federal Financial Statements. Issued 1–8–93.	31 U.S.C. 3512, 31 U.S.C. 3515.
93–18	Audited Financial Statements. Required pilot agencies defined by the 1990 CFO Act (P.L. 101–576) to submit audited financial statements to OMB and the Congress through 1996, and accelerated the submission date of audited financial statements required by the CFO Act. Issued 6–25–93.	31 U.S.C.1104e, 31 U.S.C.1105a, 31 U.S.C. 3515.
94–01	Form and Content of Agency Financial Statements (for financial statements beginning with the year ending September 30, 1993). Issued 11–16–93.	31 U.S.C. 3515d.
94–09	Payments by Electronic Funds Transfer. Issued 8–15–94.	31 U.S.C. 503, 31 U.S.C. 1111, 31 U.S.C. 3335.

Copies of Circulars and Bulletins can be obtained from: Executive Office of the President [Office of Management and Budget], Publications Service; 725 17th St. NW, Room 2200; Washington, DC 20503; (202) 395–7332.

CROSS-INDEX OF SECTIONS OF THE CODE IN THIS REPORT OMB CIRCULARS AND BULLETINS

2 U.S.C. 661	Circular A–129.
5 U.S.C. 306	Circular A–11.
31 U.S.C. 503	A–21, A–73, A–87, Circulars A–102, A–110.
31 U.S.C. 716	Circular A–34.

31 U.S.C. 720	Circular A–50.
31 U.S.C. 902(a)	Circular A–129.
31 U.S.C. 1104	Bulletin 93–18, Circular A–133.
31 U.S.C. 1105(a)	Bulletin 93–18, Circular A–129.
31 U.S.C. 1105	Circulars A–11, A–127.
31 U.S.C. 1108	Circular A–129.
31 U.S.C. 1111	Bulletin 94–09, Circulars A–73, A–25, A–94, A 110, A–122, A–133.
31 U.S.C. 1112	Circular A–87.
31 U.S.C. 1113	Circular A–127.
31 U.S.C. 1115	Circular A–11.
31 U.S.C. 1116	Circular A–11.
31 U.S.C. 1117	Circular A–11.
31 U.S.C. 1118	Circular A–11.
31 U.S.C. 1119	Circular A–11.
31 U.S.C. 1321	Circular A–34.
31 U.S.C. 1322	Circular A–34.
31 U.S.C. 1323	Circular A–34.
31 U.S.C. 1324	Circular A–34.
31 U.S.C. 1511	Circular A–34.
31 U.S.C. 1512	Circular A–34.
31 U.S.C. 1513	Circular A–34.
31 U.S.C. 1514	Circular A–34.
31 U.S.C. 1515	Circular A–34.
31 U.S.C. 1516	Circular A–34.
31 U.S.C. 1517	Circular A–34.
31 U.S.C. 1518	Circular A–34.
31 U.S.C. 1519	Circular A–34.
31 U.S.C. 1551	Circular A–34.
31 U.S.C. 1552	Circular A–34.
31 U.S.C. 1553	Circular A–34.
31 U.S.C. 1554	Circular A–34.
31 U.S.C. 1555	Circular A–34.
31 U.S.C. 1556	Circular A–34.
31 U.S.C. 1557	Circular A–34.
31 U.S.C. 3302	Circular A–50.
31 U.S.C. 3335	Bulletin 94–09.
31 U.S.C. 3511	Circular A–134.
31 U.S.C. 3512	Bulletin 93–06, Circulars A–123, A–127.
31 U.S.C. 3515	Bulletins 93–06, 93–18.
31 U.S.C. 3515(d)	Bulletin 94–01.
31 U.S.C. 3719	Circular A–129.
31 U.S.C. 3711	Circular A–50.
31 U.S.C. 3716	Circular A–50.
31 U.S.C. 3717	Circular A–50.
31 U.S.C. 3719	Circular A–129.
31 U.S.C. 3720	Circular A–129.
31 U.S.C. 3728	Circular A–50.
31 U.S.C. 3903 (a)	Circular A–125.
31 U.S.C. 7505	Circular A–128.
31 U.S.C. 9701	Circular A–25.
31 U.S.C. 9703	Circular A–11.
31 U.S.C. 9704	Circular A–11.
39 U.S.C. 2801	Circular A–11.
39 U.S.C. 2802	Circular A–11.
39 U.S.C. 2803	Circular A–11.
41 U.S.C. 422	Circular A–21.

APPENDIX V
FINANCIAL MANAGEMENT ISSUANCES
OF THE
DEPARTMENT OF TREASURY

THE DEPARTMENT OF THE TREASURY

The Department of the Treasury (Treasury) was created by an act of September 2, 1789 (31 U.S.C. 301 and 301 note). Many subsequent acts have figured in the development of Treasury, delegating new duties to its charge and establishing the numerous bureaus and divisions that now comprise the Treasury. Headed by the Secretary, the Treasury performs four basic functions: formulating and recommending economic, financial, tax, and fiscal policies; serving as the financial agent for the U.S. Government; enforcing the law; and manufacturing coins and currency. Its fiscal responsibilities also include managing the public debt by improving cash management, debt collection, and credit administration on a government wide basis.

This appendix is divided into two parts. The first contains a description of Treasury's issuances pertaining to financial management requirements and the second contains a cross-index listing of the section of the Code in sequential order followed by the related Treasury issuance.

DESCRIPTION OF ISSUANCES

The primary issuance of the Treasury related to financial management requirements is the *Treasury Financial Manual* (TFM). The TFM contains six volumes, with only Volume 1 having parts applicable to the sections of the Code included in this report. Volume 1 includes instructions for financial accounting and reporting of all receipts and disbursements of the federal government. The volume is divided into six parts, each part containing several chapters. The applicable parts and chapters of Volume 1 follow.

Chapter	Contents	U.S.C. Cite
	Part 2, Central Accounting and Reporting	
1000	Procedures and standard forms agencies are to use in reporting accounting transactions to Treasury.	31 U.S.C. 3513.
1500	Description of accounts related to financial operations to be used by agencies	31 U.S.C. 3513.
2000	Non-Expenditure Transactions	31 U.S.C. 3513.
2500	Expenditure Transactions between Appropriation, Fund, and Receipt Accounts	31 U.S.C. 1535, 31 U.S.C. 3536.
3100	Instructions for Disbursing Officers' Reports	31 U.S.C. 3521.
3200	Foreign currency accounting and reporting requirements	31 U.S.C. 3513.
3300	Reports of agencies for which Treasury disburses: Statement of Transactions and supporting documents.	31 U.S.C. 3512, 31 U.S.C. 3513.
3900	Integration of accounting results	31 U.S.C. 3513.
4000	Federal Agencies' Centralized Trial-Balance System (FACTS)	31 U.S.C. 3513a.
4100	Credit and Debt Management Reporting	31 U.S.C. 3513a.
4200	Required reports from agencies and government corporations on unexpended balances of appropriations and funds. (Year-End Closing Statements).	31 U.S.C. 3513.
4300	Reporting requirements for accounts invested in Treasury Securities	31 U.S.C. 3513.
4500	Required reports on grants, credits, and contingent liabilities involving foreigners	31 U.S.C. 3513.
4600	Reporting requirements for Direct Loan and Loan Guarantee programs	31 U.S.C. 3513a.
	Part 3, Payrolls, Deductions, and Withholdings	
2000	Payroll vouchers. Procedures to be followed and standard forms to be used in preparing payrolls for the executive branch civilian employees.	31 U.S.C. 3513.

Chapter	Contents	U.S.C. Cite
	Part 4, Disbursing	
1000	Prescribed procedures and forms governing certifying and disbursing transactions	31 U.S.C. 3321.
1100	Delegations and designations of authority for disbursing functions	31 U.S.C. 3321, 31 U.S.C. 3325.
2000	Check issue disbursing procedures	31 U.S.C. 3511, 31 U.S.C. 3513.
2500	Procedures governing Treasury Financial Communications Systems (TFCS) payments	31 U.S.C. 3511, 31 U.S.C. 3513.
3000	Procedures covering imprest fund disbursing activities	31 U.S.C. 3321.
4500	Procedures governing the use of government purchase cards	31 U.S.C. 3321, 31 U.S.C. 3322, 31 U.S.C. 3327, 31 U.S.C. 3335.
9000	Foreign Exchange. Policies and procedures governing purchase, custody, transfer, sale, and use of foreign exchange.	31 U.S.C. 301.
	Part 5, Deposit Regulations	
1000	Forms and procedures for making deposits to the credit of the U. S. Treasury	See TFM, Vol. 1, Part 6, Chapter 8000.
4600	Treasury automated lockbox network	31 U.S.C. 3720(a).
4700	Plastic card collection network	31 U.S.C. 3720(a).
5000	Uncollected and lost checks	40 U.S.C. 725.
	Part 6, Other Fiscal Matters	
4000	Procedures and technical specifications for simultaneous online billing/collection and payment of intragovernmental transactions.	31 U.S.C. 331, 31 U.S.C. 3513.
6000	Payment procedures upon expiration of an appropriation or continuing resolution	31 U.S.C. 3325, 31 U.S.C. 3326, 31 U.S.C. 3328.
7000	Forms and procedures for reporting integrated funding transactions for Federal assistance.	31 U.S.C. 3513.
8000	Cash management procedures to ensure prudent practices	31 U.S.C. 321, 31 U.S.C. 1535, 31 U.S.C. 3301, 31 U.S.C. 3302, 31 U.S.C. 3720.
9000	Procedures for securing government deposits in Federal agency accounts in non-Treasury institutions.	31 U.S.C. 3301.

Copies of the TFM can be obtained from Department of the Treasury, Financial Management Service, Directives Management Branch, Room 5C16, 3700 East-West Highway, Hyattsville, Maryland 20782, (202) 874–9939.

Cross-Index of Sections of the U.S.C. to Treasury Issuances.—

31 U.S.C. 321—TFM, Volume 1, Part 6, Chapter 8000.
31 U.S.C. 331—TFM, Volume 1, Part 6, Chapter 4000.
31 U.S.C. 1535—TFM, Volume 1, Part 2, Chapter 2500.
31 U.S.C. 1535—TFM, Volume 1, Part 6, Chapter 8000.
31 U.S.C. 3301—TFM, Volume 1, Part 6, Chapter 8000.
31 U.S.C. 3301—TFM, Volume 1, Part 6, Chapter 9000.
31 U.S.C. 3302—TFM, Volume 1, Part 6, Chapter 8000.
31 U.S.C. 3321—TFM, Volume 1, Part 2, Chapter 3100.
31 U.S.C. 3321—TFM, Volume 1, Part 4, Chapter 1000.
31 U.S.C. 3321—TFM, Volume 1, Part 4, Chapter 1100.
31 U.S.C. 3321—TFM, Volume 1, Part 4, Chapter 3000.
31 U.S.C. 3321—TFM, Volume 1, Part 4, Chapter 4500.
31 U.S.C. 3322—TFM, Volume 1, Part 4, Chapter 4500.
31 U.S.C. 3325—TFM, Volume 1, Part 4, Chapter 1100.
31 U.S.C. 3325—TFM, Volume 1, Part 6, Chapter 6000.
31 U.S.C. 3326—TFM, Volume 1, Part 6, Chapter 6000.

31 U.S.C. 3327—TFM, Volume 1, Part 4, Chapter 4500.
31 U.S.C. 3328—TFM, Volume 1, Part 6, Chapter 6000.
31 U.S.C. 3335—TFM, Volume 1, Part 4, Chapter 4500.
31 U.S.C. 3511—TFM, Volume 1, Part 4, Chapter 2000.
31 U.S.C. 3511—TFM, Volume 1, Part 4, Chapter 2500.
31 U.S.C. 3512—TFM, Volume 1, Part 2, Chapter 3300.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 1000.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 1500.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 3200.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 2000.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 3300.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 3900.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 4200.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 4300.
31 U.S.C. 3513—TFM, Volume 1, Part 2, Chapter 4500.
31 U.S.C. 3513—TFM, Volume 1, Part 3, Chapter 2000.
31 U.S.C. 3513—TFM, Volume 1, Part 4, Chapter 2000.
31 U.S.C. 3513—TFM, Volume 1, Part 4, Chapter 2500.
31 U.S.C. 3513—TFM, Volume 1, Part 6, Chapter 7000.
31 U.S.C. 3513a—TFM, Volume 1, Part 2, Chapter 4000.
31 U.S.C. 3513a—TFM, Volume 1, Part 2, Chapter 4100.
31 U.S.C. 3513a—TFM, Volume 1, Part 2, Chapter 4200.
31 U.S.C. 3720—TFM, Volume 1, Part 6, Chapter 8000.
31 U.S.C. 3720a—TFM, Volume 1, Part 5, Chapter 4600.
31 U.S.C. 3720a—TFM, Volume 1, Part 5, Chapter 4700.
31 U.S.C. 3513—TFM, Volume 1, Part 6, Chapter 4000.
40 U.S.C. 725—TFM, Volume 1, Part 5, Chapter 5000.

APPENDIX VI
THE JOINT FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM

JOINT FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM

REFERENCED TO 31 U.S.C. 3511

The Joint Financial Management Improvement Program (JFMIP) is a cooperative undertaking of the Office of Management and Budget, the General Accounting Office, the Department of the Treasury, and the Office of Personnel Management to improve financial management practices throughout the government. One of the JFMIP's recent contributions has been its series on federal financial management system requirements:

Personnel/Payroll System Requirements (May 1990).

Travel System Requirements (January 1991).

Seized/Forfeited Asset System Requirements (March 1993).

Direct Loan System Requirements (December 1993).

Guaranteed Loan System Requirements (December 1993).

Framework for Federal Financial Management Systems (January 1995).

Financial Management Systems Overview for Agency Leaders (May 1995).

Inventory System Requirements (June 1995)

Core Financial System Requirements (September 1995).

Improving Travel Management Governmentwide (December 1995).

For information or copies of issuances contact JFMIP at 441 G Street NW, Room 3711, Washington, DC 20548, (202) 512–9201.

APPENDIX VII
THE FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Federal Accounting Standards Advisory Board

Referenced to 31 U.S.C. 3511

The Federal Accounting Standards Advisory Board (FASAB) was established in 1990 by the Secretary of the Treasury, the Director of the OMB, and the Comptroller General (principals) through a Memorandum of Understanding. The nine-member FASAB was created to consider and recommend to the principals for approval accounting principles and standards for the federal government. Approved recommendations only become effective as standards when published by OMB and GAO.

As of December 31, 1995, the FASAB issued the following concept statements and accounting standards which have been approved.

Approved Concept Statements:

#1. "Objectives of Federal Financial Reporting," September 1993.

#2. "Entity and Display," June 1995.

Approved Accounting Standards:

#1. "Accounting for Selected Assets and Liabilities," March 1993.

#2. "Accounting for Direct Loans and Loan Guarantees," August 1993.

#3. "Accounting for Inventory and Related Property," October 1993.

#4. "Managerial Cost Accounting Concepts and Standards," July 1995.

#5. "Accounting for Liabilities of the Federal Government," December 1995.

#6. "Accounting for Property, Plant, and Equipment," October 1995.

The FASAB also issued two exposure drafts for comment as of December 31, 1995, as follows.

"Accounting for Revenue and Other Financing Sources," July 1995.[20]

"Supplementary Stewardship Reporting," August 1995.

For information on obtaining copies of the FASAB recommendations and exposure drafts, the Memorandum of Understanding, and its Mission Statement contact the FASAB at 441 G Street NW, Washington, DC 20548, (202) 512–7350.

[20] This standard was approved in May 1996, but has not yet been issued.

APPENDIX VIII
THE COST ACCOUNTING STANDARDS BOARD

Cost Accounting Standards Board

Referenced to 41 U.S.C. 422

The Cost Accounting Standards Board (CASB) was established as an independent board within the OMB's Office of Federal Procurement Policy. The CASB has exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations designed to achieve uniformity and consistency in cost accounting practices governing measurement, assignment, and allocation of costs to contracts and subcontracts with the federal government. The Board is a successor to the previous CASB which existed from 1970 to 1980. The CASB standards and requirements are codified in the Code of Federal Regulations (48 C.F.R. 9901 and 9903–9905).

Although the CASB standards and requirements primarily pertain to government contractors, they may be referred to as authoritative guidance by federal agencies in specific subject areas (for example, determining which specific costs are part of pension costs) not covered by standards applicable to agencies.

For additional information, contact the Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget, Washington, DC 20503, (202) 395–3254.

APPENDIX IX

POPULAR NAMES OF SELECTED MAJOR LAWS CROSS-INDEXED TO SECTIONS OF THE UNITED STATES CODE AND STATUTE OR PUBLIC LAW

Popular Names of Selected Major Laws Cross-Indexed to Sections of the United States Code and Statute or Public Law

The popular names of selected major laws related to federal financial management that appear below are cross-indexed to (1) sections of the Code contained in this report and (2) a statute citation or public law number. The Code indexed is the U.S.C.A. as of December 31, 1995. The statute or public law citations relate only to the listed law and do not include subsequent amendments.

As explained in appendix I, public law numbers do not exist for laws enacted prior to 1957. Therefore, the statute citation is provided for laws enacted prior to 1957 and public law numbers are provided for laws enacted after 1956. Also, some public laws contain more than one act as identified by popular name. Consequently, the same public law number may appear for more than one popular named law. When this occurs, the part or title of the public law will be provided. For example, both the Congressional Budget Act of 1974 and the Impoundment Control Act of 1974 are contained in PL 93–344. The Congressional Budget Act is in titles I–IX and will be indexed as "PL 93–344 (Titles I–IX)," whereas, the Impoundment Control Act will be indexed as "PL 93–344 (Title X)."

Popular Name	U.S.C. and Statute or PL Number
Accounting and Auditing Act of 1950	31 U.S.C. 713, 714, 718, 719, 3326, 3501, 3511 to 3514, 3521, 3523, 3524. Sept. 12, 1950, ch. 946, Title I, pt. II, sec. 110 to 119, 64 Stat. 834 to 838.
Accounting Simplification Acts (Meter Readings)	31 U.S.C. 1308. Apr. 27, 1937, ch. 143, 50 Stat. 119.
Balanced Budget and Emergency Deficit Control Act of 1985	2 U.S.C. 601, 602, 621 note, 622, 631 to 642, 651 to 656, 661, 900, 900 note, 901, 901a, 902, 904 to 908; 31 U.S.C. 1104 to 1106, 1109. PL 99–177.
Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.	2 U.S.C. 622, 632, 636, 642, 901, 902, 904 to 908; 31 U.S.C. 1105. PL 100–119.
Budget and Accounting Act of 1921	31 U.S.C. 501, 502, 521, 522, 701 to 704, 711, 712, 716, 718, 719, 1101, 1104 to 1108, 1111, 1113, 3301, 3323, 3324, 3521, 3522, 3526, 3529, 3541, 3702. June 10, 1921, ch. 18, 42 Stat. 20.
Budget and Accounting Procedures Act of 1950	31 U.S.C. 701, 1101, 1104, 1105, 1107, 1108, 1111, 1112, 1303, 1531, 3326, 3501, 3511 to 3514, 3521, 3523, 3524. Sept. 12, 1950, ch. 946, 64 Stat. 832.
Cash Management Improvement Act of 1990	31 U.S.C. prec. 3301, 3335. PL 101–453.
Cash Management Improvement Act Amendments of 1992	31 U.S.C. 3720. PL 102–589.
Chief Financial Officers Act of 1990	31 U.S.C. 501 note, 502 to 506, 901, 901 notes, 903, 1105, 3511 note, 3512, 3515, 3515 note, 3521. PL 101–576.
Congressional Budget Act of 1974	1 U.S.C. 105; 2 U.S.C. 190d, 601 to 603, 621 to 623, 631 to 644, 651 to 656, 661, 665 & 665a to 665e; 31 U.S.C. 702, 717, 719, 1102, 1104, to 1106, 1108 to 1110, 1112, 1113, 1512, 1552. PL 93–344 (Titles I–IX).
Congressional Budget and Impoundment Control Act of 1974	1 U.S.C. 105; 2 U.S.C. 190d, 601 to 603, 621 to 623, 631 to 642, 651 to 653, 661 & 681 to 688; 31 U.S.C. 702, 717, 719, 1102, 1104 to 1106, 1108 to 1110, 1112, 1113, 1512, 1552. PL 93–344.

Popular Name	U.S.C. and Statute or PL Number
Debt Collection Act of 1982	5 U.S.C. 552a; 31 U.S.C. 3302, 3701, 3711, 3716 to 3719. PL 97–365.
Dockery Act (Accounting)	31 U.S.C. 331, 3323, 3324, 3521, 3522, 3526, 3529, 3541, 3702. July 31, 1894, ch. 174, 28 Stat. 205.
Federal Banking Agency Audit Act	31 U.S.C. 714, 718, 719. PL 95–320.
Federal Financial Management Act of 1994	31 U.S.C. 331, 501 note, 3332, 3515, 3521. PL 103–356 (Title IV).
Federal Managers' Financial Integrity Act of 1982	31 U.S.C. 1105, 1113, 3512. PL 97–255.
General Accounting Act of 1974	31 U.S.C. 702, 3521, 3525, 3702, 3726 PL 93–604.
General Accounting Office Act of 1980	31 U.S.C. 702, 703, 716, 718, 3524. PL 96–226.
General Accounting Office Personnel Act of 1980	31 U.S.C. 711. PL 96–191.
General Accounting Office Personne Amendments Act of 1988	31 U.S.C. 701 note, 703. PL 100–426.
Government Management Reform Act of 1994	31 U.S.C. 501 note, 3301 note, 3332, 3515, 3521. PL 103–356.
Government Performance and Results Act of 1993	5 U.S.C. 306; 31 U.S.C. 1105, 1115, 1115 note, 1116 to 1119, 9703, 9704; 39 U.S.C. 2801 to 2803. PL 103–62.
Gramm-Rudman-Hollings Act	See Balanced Budget and Emergency Deficit Control Act of 1985.
Impoundment Control Act of 1974	2 U.S.C. 681 to 688; 31 U.S.C. 1512. PL 93–344 (Title X).
Inspector General Act of 1978	5 App. 3 U.S.C. 4, 8C to 8G, 9, 11. PL 95–452.
Inspector General Act Amendments of 1988	31 U.S.C. 1105. PL 100–504.
Legislative Reorganization Act of 1970	2 U.S.C. 190d; 31 U.S.C. 702, 717, 719, 720, 1105, 1106, 1112, 1113. PL 91–510.
Major Fraud Act of 1988	31 U.S.C. 3730. PL 100–700.
Omnibus Budget Reconciliation Act of 1981	31 U.S.C. 325. PL 97–35.
Omnibus Budget Reconciliation Act of 1986	31 U.S.C. 3101. PL 99–509.
Prompt Payment Act	31 U.S.C. 3901 to 3906. PL 97–177.
Prompt Payment Act Amendments of 1988	15 U.S.C. 644; 31 U.S.C. 3901, 3902, 3903 3904 to 3906, 3907. PL 100–496.
Single Audit Act of 1984	31 U.S.C. 7501 to 7507. PL 98–502.

APPENDIX X

SELECTED LAWS RELATING TO FEDERAL FINANCIAL MANAGEMENT BY STATUTE OR PUBLIC LAW NUMBER INDEXED TO POPULAR NAME

Selected Laws Relating to Federal Financial Management by Statute or Public Law Number Indexed to Popular Name

The list below shows the statute citation or Public Law number of selected laws related to federal financial management. Subsequent amendments are not shown and users should refer to other sources for subsequent amendments. As explained in appendix I, Public Law numbers were not used before 1957, and consequently, the statute citation is provided for those earlier laws. Following the statute list are the Public Law numbers, in numeric sequence for quick reference, cross-indexed to the popular name.

Some public laws contain more than one act as identified by popular name. Consequently, the same public law number may appear for more than one law. When this occurs, the part or title of the public law will be provided. For example, both the Congressional Budget Act of 1974 and the Impoundment Control Act of 1974 are contained in PL 93–344. The Congressional Budget Act is in titles I–IX and will be indexed as "PL 93–344 (Titles I–IX)," whereas, the Impoundment Control Act will be indexed as "PL 93–344 (Title X)."

Statute Citation or PL Number	Popular Name
Sept. 12, 1950, ch. 946, Title I, pt. II, sec. 110 to 119, 64 Stat. 834 to 838.	Accounting and Auditing Act of 1950.
Apr. 27, 1937, ch. 143, 50 Stat. 119	Accounting Simplification Act (Meter Readings).
June 10, 1921, ch. 18, 42 Stat. 20	Budget and Accounting Act, 1921.
Sept. 12, 1950, ch. 946, 64 Stat. 832	Budget and Accounting Procedures Act of 1950.
July 31, 1894, ch. 174, 28 Stat. 205	Dockery Act (Accounting).
91–510	Legislative Reorganization Act of 1970.
93–344 (Titles I–X)	Congressional Budget Act of 1974.
93–344	Congressional Budget and Impoundment Control Act of 1974.
93–344 (Title X)	Impoundment Control Act of 1974.
93–604	General Accounting Act of 1974.
95–320	Federal Banking Agency Audit Act.
96–191	General Accounting Office Personnel Act of 1980.
96–226	General Accounting Office Act of 1980.
97–35	Omnibus Budget Reconciliation Act of 1981.
97–177	Prompt Payment Act.
97–255	Federal Managers' Financial Integrity Act of 1982.
97–365	Debt Collection Act of 1982.
98–502	Single Audit Act of 1984.
99–177	Balanced Budget and Emergency Deficit Control Act of 1985.
99–509	Omnibus Budget Reconciliation Act of 1986.
100–119	Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.
100–426	General Accounting Office Personnel Amendments Act of 1988.
100–496	Prompt Payment Act Amendments of 1988.
100–504	Inspector General Act Amendments of 1988.
100–700	Major Fraud Act of 1988.
101–73	Inspector General Act of 1978.
101–453	Cash Management Improvement Act of 1990.

Statute Citation or PL Number	Popular Name
101–576	Chief Financial Officers Act of 1990.
102–589	Cash Management Improvement Act Amendments of 1992.
103–62	Government Performance and Results Act of 1993.
103–356 (Title IV)	Government Management Reform Act of 1994.
103–356	Federal Financial Management Act of 1994.