

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

COMMISSIONERS; TERMINATION OF APPOINTING AUTHORITY

Section 4(b) of act July 28, 1953, provided that the authority contained in subsec. (a) of this section respecting the appointment of commissioners "is hereby terminated".

SECTION UNAFFECTED BY REVISED TITLE 28

Act June 25, 1948, ch. 646, §2(d), 62 Stat. 985, provided that nothing in Title 28, Judiciary and Judicial Procedure, should be construed as repealing any of the provisions of this section.

§ 115. Personal financial liability of contracting officers

(a) Whenever any payment is made from Government funds to any war contractor or other person as an advance, partial or final payment on any termination claim, or pursuant to any loan, guaranty, or agreement for the purchase of any loan, or any commitment in connection therewith, entered into by the Government, no officer or other Government agent authorizing or approving such payment or settlement, or certifying the voucher for such payment, or making the payment in accordance with a duly certified voucher, shall be personally liable for such payment, in the absence of fraud on his part. In settling the accounts of any disbursing officer the General Accounting Office shall allow any such disbursements made by him notwithstanding any other provisions of law.

(b) For the purpose of making termination settlements or interim financing any Government agency is authorized to rely upon such certificates of war contractors as it deems proper and to permit war contractors and other persons to rely upon such certificates without financial liability in the absence of fraud on their part.

(July 1, 1944, ch. 358, §15, 58 Stat. 664.)

§ 116. Repealed. Pub. L. 104-316, title I, § 121(a), Oct. 19, 1996, 110 Stat. 3836

Section, acts July 1, 1944, ch. 358, §16, 58 Stat. 664; Ex. Ord. No. 9809, §8, eff. Dec. 12, 1946, 11 F.R. 14281; 1947 Reorg. Plan No. 1, §201, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; June 30, 1949, ch. 288, title I, §102(b), 63 Stat. 380, related to functions and jurisdiction of General Accounting Office in reviewing final settlements made by contracting agency, in certifying settlements suspected of being fraudulent to Department of Justice, Administrator of General Services, and contracting agency, and in reporting on efficacy of settlement methods and procedures to Congress.

§ 117. Defective, informal, and quasi contracts**(a) Lack of formalized contract**

Where any person has arranged to furnish or furnished to a contracting agency or to a war contractor any materials, services, or facilities related to the prosecution of the war, without a formal contract, relying in good faith upon the apparent authority of an officer or agent of a contracting agency, written or oral instructions, or any other request to proceed from a contract-

ing agency, the contracting agency shall pay such person fair compensation therefor.

(b) Technical defects or omissions

Whenever any formal or technical defect or omission in any prime contract, or in any grant of authority to an officer or agent of a contracting agency who ordered any materials, services, and facilities might invalidate the contract or commitment, the contracting agency (1) shall not take advantage of such defect or omission; (2) shall amend, confirm, or ratify such contract or commitment without consideration in order to cure such defect or omission; and (3) shall make a fair settlement of any obligation thereby created or incurred by such agency, whether expressed or implied, in fact or in law, or in the nature of an implied or quasi contract.

(c) Failure to settle

Where a contracting agency fails to settle by agreement any claim asserted under this section, the dispute shall be subject to the provisions of section 113 of this title.

(d) Formalization of obligations; termination date for filing claims

The Administrator of General Services shall require each contracting agency to formalize all such obligations and commitments within such period as the Administrator of General Services deems appropriate. No person shall be entitled to recover compensation, to receive a settlement of any alleged obligation, or to obtain the benefit of any amendment, confirmation, ratification, or formalization of any alleged contract or commitment under the provisions of subsections (a), (b), (c), or (d) of this section, unless such person shall, on or before one hundred and eighty days after June 28, 1954, have filed a claim therefor with the contracting agency.

(July 1, 1944, ch. 358, §17, 58 Stat. 665; Ex. Ord. No. 9809, §8, eff. Dec. 12, 1946, 11 F.R. 14281; 1947 Reorg. Plan No. 1, §201, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; June 30, 1949, ch. 288, title I, §102(b), 63 Stat. 380; June 28, 1954, ch. 403, §1, 68 Stat. 300.)

AMENDMENTS

1954—Subsec. (d). Act June 28, 1954, inserted sentence providing a termination date for filing claims.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury transferred to Administrator of General Services by section 102(b) of act June 30, 1949, which is classified to section 752(b) of Title 40, Public Buildings, Property, and Works.

"Secretary" substituted for "Director" by section 8 of Ex. Ord. No. 9809 and section 201 of Reorg. Plan No. 1 of 1947, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

NONACCRUAL OF LIABILITY

Section 2 of act June 28, 1954, provided that no liability should accrue by reason of the enactment of section 1 of that act [amending this section] which would not otherwise have accrued.

§ 118. Administration**(a) Records and forms**

The Administrator of General Services shall establish policies for such supervision and review within the contracting agencies of termination settlements and interim financing as he deems necessary and appropriate to prevent and detect fraud and to assure uniformity in administration and to provide for expeditious settlements. For this purpose he shall prescribe such records to be prepared by the contracting agencies and by war contractors as he deems necessary in connection with such settlements and interim financing. He shall seek to reduce the amount of record keeping, reporting, and accounting in connection with the settlement of termination claims and interim financing to the minimum compatible with the reasonable protection of the public interest. Each contracting agency shall prescribe forms for use by war contractors in connection with termination settlements and interim financing to the extent it deems necessary and feasible.

(b) Repealed. Oct. 31, 1951, ch. 654, § 1(111), 65 Stat. 705**(c) Advance notice on cut-backs**

The Administrator of General Services, by regulation, shall provide for making available to any interested Government agency such advance notice and other information on cut-backs in war production resulting from terminations or failures to renew or extend war contracts, as he deems necessary and appropriate.

(d) Investigations

The Administrator of General Services shall make such investigations as he deems necessary or desirable in connection with termination settlements and interim financing. For this purpose he may utilize the facilities of any existing agencies and if he determines that the facilities of existing agencies are inadequate, he may establish a unit in the General Services Administration to supplement and facilitate the work of existing agencies. He shall report to the Department of Justice any information received by him indicating any fraudulent practices, for appropriate action.

(e) Certification of fraudulent settlements to Department of Justice

Whenever any contracting agency or the Administrator of General Services believes that any settlement was induced by fraud, the agency or Administrator of General Services shall report the facts to the Department of Justice. Thereupon, (1) the Department of Justice shall make an investigation to determine whether such settlement was induced by fraud, and (2) until the Department of Justice notifies the contracting agency that in its opinion the facts do not support the belief that the settlement was induced by fraud, the contracting agency, by set-off or otherwise, may withhold, from amounts owing to the war contractor by the United States under such settlement or otherwise, the amount of the settlement, or the portion thereof, which, in its opinion, was affected by the fraud. In any such case the Department

of Justice shall take such action as it deems appropriate to recover payments made to such war contractor.

(July 1, 1944, ch. 358, §18, 58 Stat. 666; Ex. Ord. No. 9809, §8, eff. Dec. 12, 1946, 11 F.R. 14281; 1947 Reorg. Plan No. 1, §201, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; June 30, 1949, ch. 288, title I, §102(b), 63 Stat. 380; Oct. 31, 1951, ch. 654, §1(111), 65 Stat. 705; Pub. L. 104-316, title I, §121(b), Oct. 19, 1996, 110 Stat. 3836.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-316, in second sentence, struck out “(1)” after “he shall prescribe” and struck out “; and (2) the records in connection therewith to be transmitted to the General Accounting Office” before period at end.

1951—Subsec. (b). Act Oct. 31, 1951, struck out provisions which related to preparation of information and reports regarding termination of war contracts, settlements of termination claims, interim financing, etc.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Treasury transferred to Administrator of General Services by section 102(b) of act June 30, 1949, which is classified to section 752(b) of Title 40, Public Buildings, Property, and Works.

“Department of the Treasury” substituted for “Office of Contract Settlement” in subsec. (d) and references to “Director” changed to “Secretary” throughout this section by section 8 of Ex. Ord. No. 9809 and section 201 of Reorg. Plan No. 1 of 1947, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF TRANSFER OF FUNCTIONS

Transfer of functions by act June 30, 1949, effective July 1, 1949, see section 605 of act June 30, 1949, set out as an Effective Date note under section 471 of Title 40, Public Buildings, Property, and Works.

§ 119. Fraudulent claims, vouchers, statements, etc.; jurisdiction

Every person who makes or causes to be made, or presents or causes to be presented to any officer, agent, or employee of any Government agency any claim, bill, receipt, voucher, statement, account, certificate, affidavit, or deposition, knowing the same to be false, fraudulent, or fictitious or knowing the same to contain or to be based on any false, fraudulent, or fictitious statement or entry, or who shall cover up or conceal any material fact, or who shall use or engage in any other fraudulent trick, scheme, or device, for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit, payment, compensation, allowance, loan, advance, or emolument from the United States or any Government agency in connection with the termination, cancellation, settlement, payment, negotiation, renegotiation, performance, procurement, or award of a contract with the United States or with any other person, and every person who enters into an agreement, combination, or conspiracy so to do, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any such benefit, payment, compensation, allowance, loan, advance, and emolument received as a result thereof and (3) shall in addition pay to the United States the sum of \$2,000 for each such act, and double the amount of any damage