

et to issue supplemental interpretive guidelines to promote consistent and efficient use of contracts, grant agreements, and cooperative agreements. See section 6307(1) of Title 31.

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

#### CHAPTER 9—CONTRACT DISPUTES

- Sec.  
601. Definitions.
602. Applicability of law.  
 (a) Executive agency contracts.  
 (b) Tennessee Valley Authority contracts.  
 (c) Foreign government or international organization contracts.
603. Maritime contracts.
604. Fraudulent claims.
605. Decision by contracting officer.  
 (a) Contractor claims.  
 (b) Review; performance of contract pending appeal.  
 (c) Amount of claim; certification; notification; time of issuance; presumption.  
 (d) Alternative means of dispute resolution.  
 (e) Termination of authority to engage in alternative means of dispute resolution; savings provision.
606. Contractor's right of appeal to board of contract appeals.
607. Agency boards of contract appeals.  
 (a) Establishment; consultation; Tennessee Valley Authority.  
 (b) Appointment of members; chairman; compensation.  
 (c) Appeals; inter-agency arrangements.  
 (d) Jurisdiction.  
 (e) Decisions.  
 (f) Accelerated appeal disposition.  
 (g) Review.  
 (h) Procedural guidelines.
608. Small claims.  
 (a) Accelerated disposition of appeals.  
 (b) Simplified rules of procedure.  
 (c) Time of decision.  
 (d) Finality of decision.  
 (e) Effect of decision.  
 (f) Review of requisite amount in controversy.
609. Judicial review of board decisions.  
 (a) Actions in United States Court of Federal Claims; district court actions; time for filing.  
 (b) Finality of board decision.  
 (c) Remand or retention of case.  
 (d) Consolidation.  
 (e) Judgments as to fewer than all claims.  
 (f) Advisory opinions.
610. Subpena, discovery, and deposition.
611. Interest.
612. Payment of claims.  
 (a) Judgments.  
 (b) Monetary awards.  
 (c) Reimbursement.  
 (d) Tennessee Valley Authority.
613. Separability.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 56, 253d, 422 of this title; title 5 section 9003; title 15 section 637; title 10 sections 2321, 2410m, 2836; title 22 sections 3861, 3862; title 25 sections 450k, 450m-1; title 28 sections 2401, 2412, 2414, 2517; title 31 section 3907; title 35 section 203.

#### § 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. 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.

(Pub. L. 95-563, §2, Nov. 1, 1978, 92 Stat. 2383; Pub. L. 104-106, div. D, title XLIII, §4322(b)(5), Feb. 10, 1996, 110 Stat. 677.)

#### REFERENCES IN TEXT

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

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

#### CODIFICATION

In par. (2), “section 9101(3) of title 31” substituted for “section 846 of title 31, United States Code” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

#### AMENDMENTS

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

#### EFFECTIVE DATE OF 1996 AMENDMENT

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

## EFFECTIVE DATE

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

## SHORT TITLE

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

**§ 602. Applicability of law****(a) Executive agency contracts**

Unless otherwise specifically provided herein, this chapter applies to any express or implied contract (including those of the nonappropriated fund activities described in sections 1346 and 1491 of title 28) entered into by an executive agency for—

- (1) the procurement of property, other than real property in being;
- (2) the procurement of services;
- (3) the procurement of construction, alteration, repair or maintenance of real property; or,
- (4) the disposal of personal property.

**(b) Tennessee Valley Authority contracts**

With respect to contracts of the Tennessee Valley Authority, the provisions of this chapter shall apply only to those contracts which contain a disputes clause requiring that a contract dispute be resolved through an agency administrative process. Notwithstanding any other provision of this chapter, contracts of the Tennessee Valley Authority for the sale of fertilizer or electric power or related to the conduct or operation of the electric power system shall be excluded from the chapter.

**(c) Foreign government or international organization contracts**

This chapter does not apply to a contract with a foreign government, or agency thereof, or international organization, or subsidiary body thereof, if the head of the agency determines that the application of the chapter to the contract would not be in the public interest.

(Pub. L. 95-563, § 3, Nov. 1, 1978, 92 Stat. 2383.)

**§ 603. Maritime contracts**

Appeals under paragraph (g) of section 607 of this title and suits under section 609 of this title, arising out of maritime contracts, shall be governed by chapter 20 or 22 of title 46, Appendix, as applicable, to the extent that those chapters are not inconsistent with this chapter.

(Pub. L. 95-563, § 4, Nov. 1, 1978, 92 Stat. 2384.)

## REFERENCES IN TEXT

Chapter 20 of title 46, Appendix, referred to in text, was in the original a reference to the Act of Mar. 9, 1920

(41 Stat. 525, as amended), known as the Suits in Admiralty Act, which is classified generally to chapter 20 (§741 et seq.) of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see Short Title note set out under section 741 of Title 46, Appendix, and Tables.

Chapter 22 of title 46, Appendix, referred to in text, was in the original a reference to the Act of Mar. 3, 1925 (43 Stat. 1112, as amended), known as the Public Vessels Act, which is classified generally to chapter 22 (§781 et seq.) of Title 46, Appendix. For complete classification of this Act to the Code, see Short Title note set out under section 781 of Title 46, Appendix, and Tables.

**§ 604. Fraudulent claims**

If a contractor is unable to support any part of his claim and it is determined that such inability is attributable to misrepresentation of fact or fraud on the part of the contractor, he shall be liable to the Government for an amount equal to such unsupported part of the claim in addition to all costs to the Government attributable to the cost of reviewing said part of his claim. Liability under this subsection<sup>1</sup> shall be determined within six years of the commission of such misrepresentation of fact or fraud.

(Pub. L. 95-563, § 5, Nov. 1, 1978, 92 Stat. 2384.)

**§ 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 contractor 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

<sup>1</sup> So in original. Probably should be "section".