

board pursuant to section 607 of this title, notwithstanding any contract provision, regulation, or rules of law to the contrary, the decision of the agency board on any question of law shall not be final or conclusive, but the decision on any question of fact shall be final and conclusive and shall not be set aside unless the decision is fraudulent, or arbitrary, or capricious, or so grossly erroneous as to necessarily imply bad faith, or if such decision is not supported by substantial evidence.

(c) Remand or retention of case

In any appeal by a contractor or the Government from a decision of an agency board pursuant to section 607 of this title, the court may render an opinion and judgement and remand the case for further action by the agency board or by the executive agency as appropriate, with such direction as the court considers just and proper.

(d) Consolidation

If two or more suits arising from one contract are filed in the United States Court of Federal Claims and one or more agency boards, for the convenience of parties or witnesses or in the interest of justice, the United States Court of Federal Claims may order the consolidation of such suits in that court or transfer any suits to or among the agency boards involved.

(e) Judgments as to fewer than all claims

In any suit filed pursuant to this chapter involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be divided for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

(f) Advisory opinions

(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this chapter.

(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this chapter to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

(4) After receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion in a timely manner to the district court making the request.

(Pub. L. 95-563, §10, Nov. 1, 1978, 92 Stat. 2388; Pub. L. 97-164, title I, §§157, 160(a)(15), 161(10), Apr. 2, 1982, 96 Stat. 47-49; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103-355, title II, §2354, Oct. 13, 1994, 108 Stat. 3323.)

AMENDMENTS

1994—Subsec. (f). Pub. L. 103-355 added subsec. (f).
1992—Subsecs. (a)(1), (d). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” wherever appearing.

1982—Subsec. (a)(1). Pub. L. 97-164, §161(10), substituted “Claims Court” for “Court of Claims”.

Subsec. (c). Pub. L. 97-164, §157, struck out “, or, in its discretion and in lieu of remand it may retain the case and take such additional evidence or action as may be necessary for final disposition of the case” after “with such direction as the court considers just and proper”.

Subsec. (d). Pub. L. 97-164, §160(a)(15), substituted “United States Claims Court” for “Court of Claims” in two places.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 603 of this title; title 5 section 9003; title 10 section 2410m; title 22 sections 3861, 3862; title 28 sections 1295, 1346, 1491.

§ 610. Subpena, discovery, and deposition

A member of an agency board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the agency board. In case of contumacy or refusal to obey a subpena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the court, upon application of the agency board through the Attorney General; or upon application by the board of contract appeals of the Tennessee Valley Authority, shall have jurisdiction to issue the person an order requiring him to appear before the agency board or a member thereof, to produce evidence or to give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

(Pub. L. 95-563, §11, Nov. 1, 1978, 92 Stat. 2388.)

§ 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 Treasury pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board.

(Pub. L. 95-563, § 12, Nov. 1, 1978, 92 Stat. 2389.)

REFERENCES IN TEXT

Provisions of Public Law 92-41, referred to in text, which authorized the Secretary of the Treasury to fix interest rates for the Renegotiation Board, were contained in section 2(a)(3) of Pub. L. 92-41, which was classified to section 1215(b)(2) of Title 50, Appendix, War and National Defense, and was omitted from the Code. See note preceding section 1211 of Title 50, Appendix.

INTEREST DUE ON CLAIMS WITH DEFECTIVE CERTIFICATIONS

Pub. L. 102-572, title IX, § 907(a)(3), Oct. 29, 1992, 106 Stat. 4518, provided that: "If any interest is due under section 12 of the Contract Disputes Act of 1978 [41 U.S.C. 611] on a claim for which the certification under section 6(c)(1) [41 U.S.C. 605(c)(1)] is, on or after the date of the enactment of this Act [Oct. 29, 1992], found to be defective shall be paid from the later of the date on which the contracting officer initially received the claim or the date of the enactment of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 sections 3902, 3907.

§ 612. Payment of claims

(a) Judgments

Any judgment against the United States on a claim under this chapter shall be paid promptly in accordance with the procedures provided by section 1304 of title 31.

(b) Monetary awards

Any monetary award to a contractor by an agency board of contract appeals shall be paid promptly in accordance with the procedures contained in subsection (a) of this section.

(c) Reimbursement

Payments made pursuant to subsections (a) and (b) of this section shall be reimbursed to the fund provided by section 1304 of title 31 by the agency whose appropriations were used for the contract out of available funds or by obtaining additional appropriations for such purposes.

(d) Tennessee Valley Authority

(1) Notwithstanding the provisions of subsection (a) through (c) of this section, any judgment against the Tennessee Valley Authority on a claim under this chapter shall be paid promptly in accordance with the provisions of section 831h(b) of title 16.

(2) Notwithstanding the provisions of subsection (a) through (c), any monetary award to a contractor by the board of contract appeals for the Tennessee Valley Authority shall be paid in accordance with the provisions of section 831h(b) of title 16.

(Pub. L. 95-563, § 13, Nov. 1, 1978, 92 Stat. 2389; Pub. L. 104-106, div. D, title XLIII, § 4322(b)(7), Feb. 10, 1996, 110 Stat. 677.)

AMENDMENTS

1996—Subsecs. (a), (c). Pub. L. 104-106 substituted "section 1304 of title 31" for "section 1302 of the Act of July 27, 1956, (70 Stat. 694, as amended; 31 U.S.C. 724a)".

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.

§ 613. Separability

If any provision of this chapter, or the application of such provision to any persons or circumstances, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

(Pub. L. 95-563, § 15, Nov. 1, 1978, 92 Stat. 2391.)

CHAPTER 10—DRUG-FREE WORKPLACE

Sec.

- 701. Drug-free workplace requirements for Federal contractors.
 - (a) Drug-free workplace requirement.
 - (b) Suspension, termination, or debarment of contractor.
- 702. Drug-free workplace requirements for Federal grant recipients.
 - (a) Drug-free workplace requirement.
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- 703. Employee sanctions and remedies.
- 704. Waiver.
 - (a) In general.
 - (b) Exclusive authority.
- 705. Regulations.
- 706. Definitions.
- 707. Construction of chapter.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 20 section 1070a; title 42 section 12114.

§ 701. Drug-free workplace requirements for Federal contractors

(a) Drug-free workplace requirement

(1) Requirement for persons other than individuals

No person, other than an individual, shall be considered a responsible source, under the meaning of such term as defined in section 403(8) of this title, for the purposes of being awarded a contract for the procurement of any property or services of a value greater than the simplified acquisition threshold (as defined in section 403(11) of this title) by any Federal agency, other than a contract for the procurement of commercial items (as defined in section 403(12) of this title), unless such person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the person's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of