

EX. ORD. NO. 12177. DELEGATION OF FUNCTIONS TO DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET AND SECRETARY OF THE TREASURY

Ex. Ord. No. 12177, Dec. 10, 1979, 44 F.R. 71805, provided:

By the authority vested in me as President of the United States of America by Section 121(a)(1) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541, Public Law 95-595, 31 U.S.C. 68a) [31 U.S.C. 9503] and Section 301 of Title 3 of the United States Code, and in order to provide consistency among the financial and actuarial statements of Federal Government pension plans, it is hereby ordered as follows:

1-101. All the functions vested in the President by Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a) [31 U.S.C. 9503], are delegated to the Director of the Office of Management and Budget. The Director may, from time to time, designate other officers or agencies of the Federal Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

1-102. The head of an Executive agency responsible for the administration of any Federal Government pension plan within the meaning of Section 123(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68c) [31 U.S.C. 9502(1)], except subsections (a)(9) and (b), shall ensure that the administrators of those plans comply with the form, manner, and time of filing as required by the Director of the Office of Management and Budget.

1-103. Subject to the provisions of Section 1-101 of this Order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to the development of the form and content of the annual reports, shall perform the functions set forth in Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a) [31 U.S.C. 9503]. In performing this function, the Secretary shall also be responsible for consulting with the Comptroller General.

JIMMY CARTER.

§ 9504. Review and recommendations

When necessary or when requested by either House of Congress or a committee of Congress, the Comptroller General shall—

- (1) review financial and actuarial statements provided under section 9503 of this title to decide whether the reporting requirements of section 9503 are adequate to carry out section 9501 of this title; and
(2) submit to Congress recommendations for legislation necessary to carry out section 9501 of this title.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1051.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 9504: 31:68b, Sept. 12, 1950, ch. 946, 64 Stat. 832, § 122; added Nov. 4, 1978, Pub. L. 95-595, § 1, 92 Stat. 2542.

The word "When" is substituted for "If" in both places as being more precise. The word "deemed" is omitted as unnecessary because of the restatement. The words "the General Accounting Office" are omitted as unnecessary because of the restatement and because the authority to act is vested in the Comptroller General.

CHAPTER 97—MISCELLANEOUS

Sec. 9701. Fees and charges for Government services and things of value.

- Sec. 9702. Investment of trust funds.
9703.1 Managerial accountability and flexibility.
9704. Pilot projects for managerial accountability and flexibility.
9703.1 Department of the Treasury Forfeiture Fund.

AMENDMENTS

1993—Pub. L. 103-62, §11(b)(2), Aug. 3, 1993, 107 Stat. 295, added item 9703 relating to managerial accountability and flexibility and item 9704.

1992—Pub. L. 102-393, title VI, §638(b)(2), Oct. 6, 1992, 106 Stat. 1788, added item 9703.

§ 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.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1051.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 9701: 31:483a, Aug. 31, 1951, ch. 376, §501, 65 Stat. 290.

In the section, the words "agency (except a mixed-ownership Government corporation)" are substituted for "Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945 [31 U.S.C. 841 et seq.]" because of section 101 of the revised title and for consistency.

In subsection (a), the words "each service or thing of value provided" are substituted for "any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued" for consistency and to eliminate unnecessary words. The words "(including groups, associations, organizations, partnerships, corporations, or businesses)" are omitted as being included in "person" under 1:1.

1 So in original. Two sections 9703 have been enacted.

In subsection (b), before clause (1), the words “may prescribe regulations establishing the charge for a service or thing of value provided by the agency” are substituted for “is authorized by regulation . . . to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one” for consistency, to eliminate unnecessary words, and because of the restatement. In clause (1), the words “and equitable” are omitted as being included in “fair”. In clause (2)(A), the words “direct and indirect” are omitted as surplus. In clause (2)(B), the words “of the service or thing” are added for clarity. In clause (2)(D), the words “and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts” are omitted as unnecessary because of section 3302(a) of this title.

Subsection (c) is substituted for 31:483a(provisos) for clarity and to eliminate unnecessary words.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-393, title VI, §638(a), Oct. 6, 1992, 106 Stat. 1779, provided that: “This section [enacting section 9703 of this title and amending sections 981 and 982 of Title 18, Crimes and Criminal Procedure, section 1509 of Title 21, Food and Drugs, section 524 of Title 28, Judiciary and Judicial Procedure, and section 2003 of Title 39, Postal Service] may be cited as the ‘Treasury Forfeiture Fund Act of 1992.’”

§ 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.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9702 .....	31:547a.	R.S. §3659.

The section is substituted for 31:547a for clarity and consistency in the revised title.

§ 9703.<sup>1</sup> 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),<sup>2</sup> 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 per-

formance 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)<sup>2</sup> shall apply.

(Added Pub. L. 103-62, §5(a), Aug. 3, 1993, 107 Stat. 289.)

REFERENCES IN TEXT

Section 1105(a)(29), referred to in subsec. (a), was redesignated section 1105(a)(28) of this title by Pub. L. 104-287, §4(l), Oct. 11, 1996, 110 Stat. 3388.

Section 1115(f), referred to in subsec. (f), was redesignated section 1115(g) of this title by Pub. L. 107-296, title XIII, §1311(a)(2), Nov. 25, 2002, 116 Stat. 2290.

CONSTRUCTION

No provision or amendment made by Pub. L. 103-62 to be construed as 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 not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103-62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103-62, set out as a note under section 1115 of this title.

§ 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

<sup>1</sup> Another section 9703 is set out after section 9704 of this title.  
<sup>2</sup> See References in Text note below.