

nel Management: *Provided*, That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission."

§ 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.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 926.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows include 1349(a) and 1349(b) with their respective legal references.

In subsection (a), the words "In addition to any penalty or liability under other law" are omitted as surplus. The words "District of Columbia government" are added because of section 47-105 of the D.C. Code.

In subsection (b), the words "of the Government" and "from duty" are omitted as unnecessary because of the restatement. The word "pay" is substituted for "compensation" for consistency. The word "agency" is substituted for "department" because of section 101 of the revised title and for consistency.

§ 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.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 926.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row includes 1350 with its legal references.

The words "District of Columbia government" are added because of section 47-105 of the D.C. Code. The words "upon conviction" are omitted as surplus.

§ 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. A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 926; Pub. L. 108-447, div. G, title I, § 1401(a), Dec. 8, 2004, 118 Stat. 3192.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row includes 1351 with its legal references.

The words "executive agency" are substituted for "agency" because the definition of "agency" in 31:665(d)(2) applies to the source provisions restated in the section and because of section 102 of the revised title. The word "Mayor" is used because of Reorganization Plan No. 3 of 1967 (eff. Aug. 11, 1967, 81 Stat. 948) and sections 421, 422, and 771 of the District of Columbia Self-Government and Governmental Reorganization Act (Pub. L. 93-198, 87 Stat. 789, 818). The word "President" is substituted for "President, through the Director of the Office of Management and Budget" because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President.

AMENDMENTS

2004—Pub. L. 108-447 inserted at end "A copy of each report shall also be transmitted to the Comptroller General on the same date the report is transmitted to the President and Congress."

§ 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 Member 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) the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

(B) 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 the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee.

(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) 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)(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 em-

ployees 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, including a contract or subcontract to carry out any purpose for which such a loan is made.

(e) 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.

(f) 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.

(g) 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).

(Added Pub. L. 101-121, title III, §319(a)(1), Oct. 23, 1989, 103 Stat. 750; amended Pub. L. 101-512, title III, §320, Nov. 5, 1990, 104 Stat. 1977; Pub. L. 103-272, §4(f)(1)(F), July 5, 1994, 108 Stat. 1362; Pub. L. 104-65, §10, Dec. 19, 1995, 109 Stat. 700; Pub. L. 104-66, title III, §3001(b), Dec. 21, 1995, 109

Stat. 734; Pub. L. 104-106, div. A, title X, §1064(c), div. D, title XLIII, §4301(a)(2), Feb. 10, 1996, 110 Stat. 445, 656.)

REFERENCES IN TEXT

The Lobbying Disclosure Act of 1995, referred to in subsec. (b)(2)(A), (3), is Pub. L. 104-65, Dec. 19, 1995, 109 Stat. 691, which is classified principally to chapter 26 (§1601 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 2 and Tables.

CODIFICATION

Another section 1352 was renumbered section 1353 of this title.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104-106, §4301(a)(2), which directed amendment of par. (2) by inserting “and” after the semicolon at the end of subpar. (A) and by striking out subpar. (C), was not executed because subsec. (b)(2) did not contain a subpar. (C) subsequent to amendment by Pub. L. 104-65, §10(a)(1). See 1995 Amendment note below.

Subsec. (b)(6)(A). Pub. L. 104-106, §1064(c)(1), which directed insertion of “(other than the Secretary of Defense and Secretary of a military department)” after “The head of each agency”, could not be executed because subsec. (b)(6) did not contain a subpar. (A) subsequent to amendment by Pub. L. 104-65, §10(a)(3). See 1995 Amendment note below.

Subsec. (d)(1). Pub. L. 104-106, §1064(c)(2), which directed the insertion of “(other than in the case of the Department of Defense or a military department)” after “paragraph (3) of this subsection”, could not be executed because subsec. (d)(1) did not contain phrase “paragraph (3) of this subsection” subsequent to amendment by Pub. L. 104-65, §10(b). See 1995 Amendment note below.

1995—Subsec. (b)(2). Pub. L. 104-65, §10(a)(1), added subpars. (A) and (B) and struck out former subpars. (A) to (C) which read as follows:

“(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).”

Subsec. (b)(3). Pub. L. 104-65, §10(a)(2), substituted “shall contain the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guaranty.” for “shall contain—” and struck out subpars. (A) and (B) which read as follows:

“(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 employee 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.”

Subsec. (b)(6), (7). Pub. L. 104-65, §10(a)(3), redesignated par. (7) as (6), and struck out former par. (6) which directed head of each agency to collect and compile detailed information on any unappropriated payments under Federal contracts, and report such information to the appropriate congressional officer or committee.

Subsecs. (d) to (h). Pub. L. 104-65, §10(b), and Pub. L. 104-66, §3001(b), amended section identically, redesignating subsecs. (e) to (h) as (d) to (g), respectively, and striking out former subsec. (d) which directed the Inspector General or official of each agency to submit annual reports to Congress on the compliance of each agency with the requirements imposed by this section. 1994—Subsec. (c). Pub. L. 103-272, §4(f)(1)(F)(i), substituted “(c)(1) Any person” for “(C)(1) Any person”.

Subsec. (e)(1)(C). Pub. L. 103-272, §4(f)(1)(F)(ii), substituted “appropriated” for “appropriated” and inserted period at end.

Subsec. (h)(7). Pub. L. 103-272, §4(f)(1)(F)(iii), inserted periods after “agency” and “guaranty”.

1990—Subsec. (e)(2)(C). Pub. L. 101-512 inserted “or the single family maximum mortgage limit for affected programs, whichever is greater,” after “\$150,000.”.

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 2302 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104-65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE

Section 319(d) of Pub. L. 101-121 provided that: “Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitments that are entered into or made more than 60 days after the date of the enactment of this Act [Oct. 23, 1989].”

FIRST REPORT ON MAY 31, 1990; CONTENT

Section 319(b) of Pub. L. 101-121 provided that the first report submitted under former subsec. (b)(6) of this section was to be submitted on May 31, 1990, and was to contain a compilation relating to the statements received under subsec. (b) of this section during the six-month period beginning on Oct. 1, 1989.

NOTIFICATION OF COMPLIANCE DATE; GUIDANCE FOR AGENCY IMPLEMENTATION

Section 319(c) of Pub. L. 101-121 provided that: “The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act [Oct. 23, 1989]. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) [now (b)(6)] of such section.”

§ 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