

ment when the Secretary considers it necessary” are substituted for “When, in the opinion of the Secretary of the Army, Navy, or Air Force, the exigencies of the service so require . . . with the approval of the head of their executive department” in 31:103a because of 10:101(7), to eliminate unnecessary words, and for consistency. The title of Secretary of War was changed to Secretary of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). The Secretary of the Air Force is included because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488). The words “deputy disbursing official” are substituted for “deputies” for clarity. In clause (A), the words “to make payments” are substituted for “for the purpose of having them make disbursements” to eliminate unnecessary words. In clause (C), the words “to be performed by such disbursing officers” are omitted as unnecessary.

In subsection (a)(2), the words “deputy disbursing official” are substituted for “agent officer” for clarity and consistency.

In subsection (b)(1), the word “disabled” is substituted for “incapacity” for consistency in the title. The word “until” is substituted for “for a period of time not to extend beyond” to eliminate unnecessary words.

In subsection (b)(2), the words “The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official” are substituted for “The former disbursing officer or his estate . . . but the deputy disbursing officer shall be responsible therefor” for clarity and because of the restatement. The word “liable” is substituted for “subject to any legal liability or penalty” to eliminate unnecessary words. The word “actions” is substituted for “official acts and defaults”. The words “in the name or in the place of the former disbursing officer” are omitted as unnecessary.

#### AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-106, §913(a)(2)(A)(i), substituted “Subject to paragraph (3), a disbursing official of the Department of Defense” for “With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department”.

Subsec. (a)(3). Pub. L. 104-106, §913(a)(2)(A)(ii), added par. (3).

Subsec. (b)(1). Pub. L. 104-106, §913(a)(2)(B), substituted “the Department of Defense” for “any military department”.

1982—Pub. L. 97-258 substituted provisions authorizing a disbursing official of a military department to designate a deputy disbursing official with the same duties and penalties for misconduct as those of the disbursing official and allowing a deputy disbursing official to continue the accounts and payments in the name of a former disbursing official for two months after the death, disability, or separation of the former disbursing official for provisions authorizing any officer of an armed force accountable for public money to entrust it to another officer of an armed force to make disbursement as his agent, with both officers pecuniarily responsible to the United States for that money.

### § 2773a. Departmental accountable officials

(a) DESIGNATION BY SECRETARY OF DEFENSE.—The Secretary of Defense may designate any civilian employee of the Department of Defense or member of the armed forces under the Secretary’s jurisdiction who is described in subsection (b) as an employee or member who, in addition to any other potential accountability, may be held accountable through personal monetary liability for an illegal, improper, or incorrect payment made by the Department of De-

fense described in subsection (c). Any such designation shall be in writing. Any employee or member who is so designated may be referred to as a “departmental accountable official”.

(b) COVERED EMPLOYEES AND MEMBERS.—An employee or member of the armed forces described in this subsection is an employee or member who—

(1) is responsible in the performance of the employee’s or member’s duties for providing to a certifying official of the Department of Defense information, data, or services that are directly relied upon by the certifying official in the certification of vouchers for payment; and

(2) is not otherwise accountable under subtitle III of title 31 or any other provision of law for payments made on the basis of such vouchers.

(c) PECUNIARY LIABILITY.—(1) The Secretary of Defense may subject a departmental accountable official to pecuniary liability for an illegal, improper, or incorrect payment made by the Department of Defense if the Secretary determines that such payment—

(A) resulted from information, data, or services that that official provided to a certifying official and upon which that certifying official directly relies in certifying the voucher supporting that payment; and

(B) was the result of fault or negligence on the part of that departmental accountable official.

(2) Pecuniary liability under this subsection shall apply in the same manner and to the same extent as applies to an official accountable under subtitle III of title 31.

(3) Any pecuniary liability of a departmental accountable official under this subsection for a loss to the United States resulting from an illegal, improper, or incorrect payment is joint and several with that of any other officer or employee of the United States or member of the uniformed services who is pecuniarily liable for such loss.

(d) CERTIFYING OFFICIAL DEFINED.—In this section, the term “certifying official” means an employee who has the responsibilities specified in section 3528(a) of title 31.

(Added Pub. L. 107-314, div. A, title X, §1005(a), Dec. 2, 2002, 116 Stat. 2631; amended Pub. L. 109-163, div. A, title X, §1056(c)(8), Jan. 6, 2006, 119 Stat. 3440.)

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 inserted “by” after “incorrect payment made”.

### § 2773b. Parking of funds: prohibition; penalties

(a) PROHIBITION.—An officer or employee of the Department of Defense may not direct the designation of funds for a particular purpose in the budget of the President, as submitted to Congress pursuant to section 1105 of title 31, or the supporting documents of the Department of Defense component of such budget, with the knowledge or intent that such funds, if made available to the Department, will not be used for the purpose for which they are designated.

(b) PENALTIES.—The direction of the designation of funds in violation of the prohibition in

subsection (a) shall be treated for purposes of chapter 13 of title 31 as a violation of section 1341(a)(1)(A) of such title.

(Added Pub. L. 109-364, div. A, title X, § 1053(a)(1), Oct. 17, 2006, 120 Stat. 2396.)

#### EFFECTIVE DATE

Pub. L. 109-364, div. A, title X, § 1053(b), Oct. 17, 2006, 120 Stat. 2396, provided that:

“(1) IN GENERAL.—The amendments made by subsection (a) [enacting this section] shall take effect on the date that is 31 days after the date of the enactment of this Act [Oct. 17, 2006].

“(2) MODIFICATION OF CERTAIN POLICIES AND REGULATIONS.—Not later than 30 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall modify the policies and regulations of the Department of Defense regarding the preparation and submittal to Congress of budget materials for the Department of Defense to take into account section 2773b of title 10, United States Code, as added by subsection (a).”

### § 2774. Claims for overpayment of pay and allowances and of travel and transportation allowances

(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances, to or on behalf of a member or former member of the uniformed services, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

(1) the Director of the Office of Management and Budget; or

(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

(A) the claim is in an amount aggregating not more than \$10,000; and

(B) the waiver is made in accordance with standards which the Director of the Office of Management and Budget shall prescribe.

(b) The Director of the Office of Management and Budget or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

(2) if application for waiver is received in his office after the expiration of five years immediately following the date on which the erroneous payment was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(Added Pub. L. 92-453, § 1(1), Oct. 2, 1972, 86 Stat. 758; amended Pub. L. 96-513, title V, § 511(98), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 99-224, § 2(a), Dec. 28, 1985, 99 Stat. 1741; Pub. L. 100-26, § 7(j)(7)(A), (B), Apr. 21, 1987, 101 Stat. 283; Pub. L. 102-190, div. A, title VI, § 657(b), Dec. 5, 1991, 105 Stat. 1393; Pub. L. 104-316, title I, § 105(b), Oct. 19, 1996, 110 Stat. 3830; Pub. L. 109-364, div. A, title VI, § 671(a), Oct. 17, 2006, 120 Stat. 2270.)

#### AMENDMENTS

2006—Subsec. (a)(2)(A). Pub. L. 109-364, § 671(a)(1), substituted “\$10,000” for “\$1,500”.

Subsec. (b)(2). Pub. L. 109-364, § 671(a)(2), substituted “five years” for “three years”.

1996—Subsec. (a). Pub. L. 104-316, § 105(b)(1), substituted “Director of the Office of Management and Budget” for “Comptroller General” in par. (1), and in par. (2) inserted “and” at end of subpar. (A), redesignated subpar. (C) as (B) and substituted “Director of the Office of Management and Budget” for “Comptroller General”, and struck out former subpar. (B) which read as follows “the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and”.

Subsec. (b). Pub. L. 104-316, § 105(b)(2), substituted “Director of the Office of Management and Budget” for “Comptroller General”.

1991—Subsec. (a)(2)(A). Pub. L. 102-190 substituted “\$1,500” for “\$500”.

1987—Pub. L. 100-26, § 7(j)(7)(A), substituted “allowances and of” for “allowances, and” in section catchline.

Subsec. (a). Pub. L. 100-26, § 7(j)(7)(B), struck out “as defined in section 101(3) of title 37,” after “uniformed services.”

1985—Pub. L. 99-224, § 2(a)(1), substituted “and” for “other than” in section catchline.

Subsec. (a). Pub. L. 99-224, § 2(a)(2), substituted “made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances” for “, other than travel and transportation allowances, made before or after October 2, 1972”.

Subsec. (b)(2). Pub. L. 99-224, § 2(a)(3), struck out “of pay or allowances, other than travel and transportation allowances,” after “payment”.

1980—Subsec. (a). Pub. L. 96-513 substituted “October 2, 1972” for “the effective date of this section”.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title VI, § 671(c), Oct. 17, 2006, 120 Stat. 2270, provided that: “The amendments made by this section [amending this section and section 716 of Title 32, National Guard] shall take effect on March 1, 2007.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-316 effective 60 days after Oct. 19, 1996, see section 101(e) of Pub. L. 104-316, set out as a note under section 4593 of Title 2, The Congress.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-224 applicable to any claim arising out of an erroneous payment of travel and