

(G) addresses other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of OMB and after consultation with affected agencies, that are determined to be in accordance with the purposes of this order.

(c) *Agency Review.* The agencies shall review such draft legislation or regulation to determine that either the draft legislation or regulation meets the applicable standards provided in subsections (a) and (b) of this section, or it is unreasonable to require the particular piece of draft legislation or regulation to meet one or more of those standards.

SEC. 4. *Principles to Promote Just and Efficient Administrative Adjudications.*

(a) *Implementation of Administrative Conference Recommendations.* In order to promote just and efficient resolution of disputes, an agency that adjudicates administrative claims shall, to the extent reasonable and practicable, and when not in conflict with other sections of this order, implement the recommendations of the Administrative Conference of the United States, entitled "Case Management as a Tool for Improving Agency Adjudication," as contained in 1 C.F.R. 305.86-7 (1991).

(b) *Improvements in Administrative Adjudication.* All Federal agencies should review their administrative adjudicatory processes and develop specific procedures to reduce delay in decision-making, to facilitate self-representation where appropriate, to expand non-lawyer counseling and representation where appropriate, and to invest maximum discretion in fact-finding officers to encourage appropriate settlement of claims as early as possible.

(c) *Bias.* All Federal agencies should review their administrative adjudicatory processes to identify any type of bias on the part of the decision-makers that results in an injustice to persons who appear before administrative adjudicatory tribunals; regularly train all fact-finders, administrative law judges, and other decision-makers to eliminate such bias; and establish appropriate mechanisms to receive and resolve complaints of such bias from persons who appear before administrative adjudicatory tribunals.

(d) *Public Education.* All Federal agencies should develop effective and simple methods, including the use of electronic technology, to educate the public about its claims/benefits policies and procedures.

SEC. 5. *Coordination by the Department of Justice.*

(a) The Attorney General shall coordinate efforts by Federal agencies to implement sections 1, 2 and 4 of this order.

(b) To implement the principles and purposes announced by this order, the Attorney General is authorized to issue guidelines implementing sections 1 and 4 of this order for the Department of Justice. Such guidelines shall serve as models for internal guidelines that may be issued by other agencies pursuant to this order.

SEC. 6. *Definitions.* For purposes of this order:

(a) The term "agency" shall be defined as that term is defined in section 105 of title 5, United States Code.

(b) The term "litigation counsel" shall be defined as the trial counsel or the office in which such trial counsel is employed, such as the United States Attorney's Office for the district in which the litigation is pending or a litigating division of the Department of Justice. Special Assistant United States Attorneys are included within this definition. Those agencies authorized by law to represent themselves in court without assistance from the Department of Justice are also included in this definition, as are private counsel hired by any Federal agency to conduct litigation on behalf of the agency or the United States.

SEC. 7. *No Private Rights Created.* This order is intended only to improve the internal management of the executive branch in resolving disputes, conducting litigation in a reasonable and just manner, and reviewing legislation and regulations. This order shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or

any other person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order. Nothing in this order shall be construed to obligate the United States to accept a particular settlement or resolution of a dispute, to alter its standards for accepting settlements, to forego seeking a consent decree or other relief, or to alter any existing delegation of settlement or litigating authority.

SEC. 8. *Scope.*

(a) *No Applicability to Criminal Matters or Proceedings in Foreign Courts.* This order is applicable to civil matters only. It is not intended to affect criminal matters, including enforcement of criminal fines or judgments of criminal forfeiture. This order does not apply to litigation brought by or against the United States in foreign courts or tribunals.

(b) *Application of Notice Provision.* Notice pursuant to subsection (a) of section 1 is not required (1) in any action to seize or forfeit assets subject to forfeiture or in any action to seize property; (2) in any bankruptcy, insolvency, conservatorship, receivership, or liquidation proceeding; (3) when the assets that are the subject of the action or that would satisfy the judgment are subject to flight, dissipation, or destruction; (4) when the defendant is subject to flight; (5) when, as determined by litigation counsel, exigent circumstances make providing such notice impracticable or such notice would otherwise defeat the purpose of the litigation, such as in actions seeking temporary restraining orders or preliminary injunctive relief; or (6) in those limited classes of cases where the Attorney General determines that providing such notice would defeat the purpose of the litigation.

(c) *Additional Guidance as to Scope.* The Attorney General shall have the authority to issue further guidance as to the scope of this order, except section 3, consistent with the purposes of this order.

SEC. 9. *Conflicts with Other Rules.* Nothing in this order shall be construed to require litigation counsel or any agency to act in a manner contrary to the Federal Rules of Civil Procedure [28 U.S.C. App.], Tax Court Rules of Practice and Procedure, State or Federal law, other applicable rules of practice or procedure, or court order.

SEC. 10. *Privileged Information.* Nothing in this order shall compel or authorize the disclosure of privileged information, sensitive law enforcement information, information affecting national security, or information the disclosure of which is prohibited by law.

SEC. 11. *Effective Date.* This order shall become effective 90 days after the date of signature. This order shall not apply to litigation commenced prior to the effective date.

SEC. 12. *Revocation.* Executive Order No. 12778 is hereby revoked.

WILLIAM J. CLINTON.

**§ 520. Transmission of petitions in United States Court of Federal Claims or in United States Court of Appeals for the Federal Circuit; statement furnished by departments**

(a) In suits against the United States in the United States Court of Federal Claims or in the United States Court of Appeals for the Federal Circuit founded on a contract, agreement, or transaction with an executive department or military department, or a bureau, officer, or agent thereof, or when the matter or thing on which the claim is based has been passed on and decided by an executive department, military department, bureau, or officer authorized to adjust it, the Attorney General shall send to the department, bureau, or officer a printed copy of the petition filed by the claimant, with a request that the department, bureau, or officer

furnish to the Attorney General all facts, circumstances, and evidence concerning the claim in the possession or knowledge of the department, bureau, or officer.

(b) Within a reasonable time after receipt of the request from the Attorney General, the executive department, military department, bureau, or officer shall furnish the Attorney General with a written statement of all facts, information, and proofs. The statement shall contain a reference to or description of all official documents and papers, if any, as may furnish proof of facts referred to in it, or may be necessary and proper for the defense of the United States against the claim, mentioning the department, office, or place where the same is kept or may be secured. If the claim has been passed on and decided by the department, bureau, or officer, the statement shall briefly state the reasons and principles on which the decision was based. When the decision was founded on an Act of Congress it shall be cited specifically, and if any previous interpretation or construction has been given to the Act, section, or clause by the department, bureau, or officer, it shall be set forth briefly in the statement and a copy of the opinion filed, if any, attached to it. When a decision in the case has been based on a regulation of a department or when a regulation has, in the opinion of the department, bureau, or officer sending the statement, any bearing on the claim, it shall be distinctly quoted at length in the statement. When more than one case or class of cases is pending, the defense of which rests on the same facts, circumstances, and proofs, the department, bureau, or officer may certify and send one statement and it shall be held to apply to all cases as if made out, certified, and sent in each case respectively.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 614; amended Pub. L. 97-164, title I, §118(a), Apr. 2, 1982, 96 Stat. 32; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 91.	R.S. §188.

The section is reorganized and restated for clarity. In subsection (a), the word “concerning” is substituted for “touching”.

In subsection (b), the words “without delay” are omitted as unnecessary in view of the requirement that the statement be furnished “Within a reasonable time”. The word “briefly” is substituted for “succinctly”. The words “in suit” are omitted as unnecessary.

The words “executive department” are substituted for “department” because “department” as used in R.S. §188 meant “executive department”. (See R.S. §159.) The words “military department” are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in

1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser’s note for section 301 of title 5, United States Code.

AMENDMENTS

1992—Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” in section catchline and subsec. (a).

1982—Pub. L. 97-164, §118(a)(2), substituted “United States Claims Court or in United States Court of Appeals for the Federal Circuit” for “Court of Claims” in section catchline.

Subsec. (a). Pub. L. 97-164, §118(a)(1), substituted “United States Claims Court or in the United States Court of Appeals for the Federal Circuit” for “Court of Claims”.

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 this title.

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 this title.

§ 521. Publication and distribution of opinions

The Attorney General, from time to time—  
 (1) shall cause to be edited, and printed in the Government Publishing Office, such of his opinions as he considers valuable for preservation in volumes; and  
 (2) may prescribe the manner for the distribution of the volumes.

Each volume shall contain headnotes, an index, and such footnotes as the Attorney General may approve.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 614; amended Pub. L. 113-235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 305 (1st sentence, as applicable to the Attorney General; 2d and 3d sentences).	R.S. §383 (1st sentence, as applicable to the Attorney General; 2d and 3d sentences).

Section 188 of the Revised Statutes was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, §201(d), as added Aug. 10, 1949, ch. 412, §4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides “Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense” is omitted from this title but is not repealed.

The words “his opinions” are substituted for “the opinions of the law officers herein authorized to be given” as the opinions of the Attorney General are his and only his and the reference to other “law officers” is misleading. All functions of all other officers of the Department of Justice were transferred to the Attorney General by 1950 Reorg. Plan No. 2, §1, eff. May 14, 1950, 64 Stat. 1261. The word “considers” is substituted for “may deem”.

In the last sentence, the words “proper” and “complete and full” are omitted as unnecessary.

CHANGE OF NAME

“Government Publishing Office” substituted for “Government Printing Office” in par. (1) on authority