

tail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.” Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-78, title V, §511, Nov. 13, 1997, 111 Stat. 1516.

Pub. L. 104-208, div. A, title I, §101(e) [title V, §509], Sept. 30, 1996, 110 Stat. 3009-233, 3009-269.

Pub. L. 104-134, title I, §101(d) [title V, §509], Apr. 26, 1996, 110 Stat. 1321-211, 1321-244; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103-333, title V, §515, Sept. 30, 1994, 108 Stat. 2574.

EX. ORD. NO. 13457. PROTECTING AMERICAN TAXPAYERS FROM GOVERNMENT SPENDING ON WASTEFUL EARMARKS

Ex. Ord. No. 13457, Jan. 29, 2008, 73 F.R. 6417, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. It is the policy of the Federal Government to be judicious in the expenditure of taxpayer dollars. To ensure the proper use of taxpayer funds that are appropriated for Government programs and purposes, it is necessary that the number and cost of earmarks be reduced, that their origin and purposes be transparent, and that they be included in the text of the bills voted upon by the Congress and presented to the President. For appropriations laws and other legislation enacted after the date of this order, executive agencies should not commit, obligate, or expend funds on the basis of earmarks included in any non-statutory source, including requests in reports of committees of the Congress or other congressional documents, or communications from or on behalf of Members of Congress, or any other non-statutory source, except when required by law or when an agency has itself determined a project, program, activity, grant, or other transaction to have merit under statutory criteria or other merit-based decisionmaking.

SEC. 2. Duties of Agency Heads. (a) With respect to all appropriations laws and other legislation enacted after the date of this order, the head of each agency shall take all necessary steps to ensure that:

(i) agency decisions to commit, obligate, or expend funds for any earmark are based on the text of laws, and in particular, are not based on language in any report of a committee of Congress, joint explanatory statement of a committee of conference of the Congress, statement of managers concerning a bill in the Congress, or any other non-statutory statement or indication of views of the Congress, or a House, committee, Member, officer, or staff thereof;

(ii) agency decisions to commit, obligate, or expend funds for any earmark are based on authorized, transparent, statutory criteria and merit-based decision making, in the manner set forth in section II of OMB Memorandum M-07-10, dated February 15, 2007, to the extent consistent with applicable law; and

(iii) no oral or written communications concerning earmarks shall supersede statutory criteria, competitive awards, or merit-based decisionmaking.

(b) An agency shall not consider the views of a House, committee, Member, officer, or staff of the Congress with respect to commitments, obligations, or expenditures to carry out any earmark unless such views are in writing, to facilitate consideration in accordance with section 2(a)(ii) above. All written communications from the Congress, or a House, committee, Member, officer, or staff thereof, recommending that funds be committed, obligated, or expended on any earmark shall be made publicly available on the Internet by the receiving agency, not later than 30 days after receipt of such communication, unless otherwise specifically directed by the head of the agency, without delegation, after consultation with the Director of the Office of Management and Budget, to preserve appropriate confidentiality between the executive and legislative branches.

(c) Heads of agencies shall otherwise implement within their respective agencies the policy set forth in section 1 of this order, consistent with such instructions as the Director of the Office of Management and Budget may prescribe.

(d) The head of each agency shall upon request provide to the Director of the Office of Management and Budget information about earmarks and compliance with this order.

SEC. 3. Definitions. For purposes of this order:

(a) The term “agency” means an executive agency as defined in section 105 of title 5, United States Code, and the United States Postal Service and the Postal Regulatory Commission, but shall exclude the Government Accountability Office; and

(b) the term “earmark” means funds provided by the Congress for projects, programs, or grants where the purported congressional direction (whether in statutory text, report language, or other communication) circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the executive branch to manage its statutory and constitutional responsibilities pertaining to the funds allocation process.

SEC. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§ 1302. Determining amounts appropriated

Except as specifically provided by law, the total amount appropriated in an appropriation law is determined by adding up the specific amounts or rates appropriated in each paragraph of the law.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 917.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 1302 | 31:670. | May 28, 1896, ch. 252, §1(par. immediately before heading “Treasury Department”), 29 Stat. 148. |

The words “by adding up” are substituted for “by the correct footing up” for clarity.

§ 1303. Effect of changes in titles of appropriations

Expenditures for a particular object or purpose authorized by a law (and referred to in that law by the specific title previously used for the appropriation item in the appropriation law concerned) may be made from a corresponding appropriation item when the specific title is changed or eliminated from a later appropriation law.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 917.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---|
| 1303 | 31:581(note). | Sept. 12, 1950, ch. 946, §302(b), 64 Stat. 844. |

§ 1304. Judgments, awards, and compromise settlements

(a) Necessary amounts are appropriated to pay final judgments, awards, compromise settlements, and interest and costs specified in the judgments or otherwise authorized by law when—

- (1) payment is not otherwise provided for;
- (2) payment is certified by the Secretary of the Treasury; and
- (3) the judgment, award, or settlement is payable—

- (A) under section 2414, 2517, 2672, or 2677 of title 28;
- (B) under section 3723 of this title;
- (C) under a decision of a board of contract appeals; or

(D) in excess of an amount payable from the appropriations of an agency for a meritorious claim under section 2733 or 2734 of title 10, section 715 of title 32, or section 20113 of title 51.

(b)(1) Interest may be paid from the appropriation made by this section—

(A) on a judgment of a district court, only when the judgment becomes final after review on appeal or petition by the United States Government, and then only from the date of filing of the transcript of the judgment with the Secretary of the Treasury through the day before the date of the mandate of affirmance; or

(B) on a judgment of the Court of Appeals for the Federal Circuit or the United States Court of Federal Claims under section 2516(b) of title 28, only from the date of filing of the transcript of the judgment with the Secretary of the Treasury through the day before the date of the mandate of affirmance.

(2) Interest payable under this subsection in a proceeding reviewed by the Supreme Court is not allowed after the end of the term in which the judgment is affirmed.

(c)(1) A judgment or compromise settlement against the Government shall be paid under this section and sections 2414, 2517, and 2518¹ of title 28 when the judgment or settlement arises out of an express or implied contract made by—

- (A) the Army and Air Force Exchange Service;
- (B) the Navy Exchanges;
- (C) the Marine Corps Exchanges;
- (D) the Coast Guard Exchanges; or
- (E) the Exchange Councils of the National Aeronautics and Space Administration.

(2) The Exchange making the contract shall reimburse the Government for the amount paid by the Government.

(Pub. L. 97-258, §§1, 2(m)(2), Sept. 13, 1982, 96 Stat. 917, 1062; Pub. L. 102-572, title IX,

¹ See References in Text note below.

§ 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 104-316, title II, §202(m), Oct. 19, 1996, 110 Stat. 3843; Pub. L. 111-314, § 4(b), Dec. 18, 2010, 124 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---|---|
| 1304(a) | 31:724a(1st sentence words before 1st proviso). | July 27, 1956, ch. 748, §1302(1st sentence), 70 Stat. 694; Aug. 30, 1961, Pub. L. 87-187, §3, 75 Stat. 416; July 18, 1966, Pub. L. 89-506, §6, 80 Stat. 307; July 23, 1970, Pub. L. 91-350, §1(c), 84 Stat. 449; restated May 4, 1977, Pub. L. 95-26, §101(2d par. under heading "Claims and Judgments"), 91 Stat. 96; Mar. 7, 1978, Pub. L. 95-240, §201, 92 Stat. 116; Nov. 1, 1978, Pub. L. 95-563, §14(c), 92 Stat. 2390; Apr. 2, 1982, Pub. L. 97-164, title I, §155, title III, §302(c), 96 Stat. 47, 56. |
| 1304(b) | 28:2516(b)(less 1st sentence words after last comma). | |
| 1304(c) | 31:724a(1st sentence 1st, 2d provisos). 31:724a(1st sentence last proviso) | |

In subsection (a), before clause (1), the words "out of any money in the Treasury not otherwise appropriated" are omitted as surplus. The words "awards rendered by the Indian Claims Commission" are omitted as executed because under 25:70v the Commission was dissolved and all of its outstanding cases were transferred to the Court of Claims. Under 25:70v-3, judgments on cases transferred to the Court of Claims are judgments under 28:2517 and 2518 and are therefore included under clause (3)(A) of the subsection.

In subsection (b), the text of 28:2516(b)(less 1st sentence words after last comma) is omitted as superseded by 31:724a.

In subsection (b)(1)(A), the words "through the day before the date" are substituted for "to the date" as being more precise.

REFERENCES IN TEXT

Section 2518 of title 28, referred to in subsec. (c)(1), was repealed by Pub. L. 97-164, title I, §139(i), Apr. 2, 1982, 96 Stat. 43.

AMENDMENTS

2010—Subsec. (a)(3)(D). Pub. L. 111-314 substituted "section 20113 of title 51" for "section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473)".

1996—Subsecs. (a)(2), (b)(1)(A), (B). Pub. L. 104-316 substituted "Secretary of the Treasury" for "Comptroller General".

1992—Subsec. (b)(1)(B). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Subsec. (b)(1)(A). Pub. L. 97-258, §2(m)(2)(A), struck out "under section 2411(b) of title 28" after "district court".

Subsec. (b)(1)(B). Pub. L. 97-258, §2(m)(2)(B), substituted "Court of Appeals for the Federal Circuit or the United States Claims Court" 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 Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-258, §2(m), Sept. 13, 1982, 96 Stat. 1062, provided that the amendment made by that section is effective Oct. 1, 1982.