

Preference Act of 1944 (former sections 851–869). They are based in part on former section 860 (codified in §1302(c)). The authorization in that section to make and enforce regulations for the competitive service would include the authority to investigate and report. The words “and other employees” are substituted for “and its own subordinates, and those in the public service” in view of the definition of “employee” in section 2105.

Standard changes are made to conform with the definition applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95–454 substituted in opening par. “Office of Personnel Management, Merit Systems Protection Board, and Special Counsel” for “Civil Service Commission” and in par. (1) “Office of Personnel Management” for “Commission”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of this title.

§ 1304. Loyalty investigations; reports; revolving fund

(a) The Office of Personnel Management shall conduct the investigations and issue the reports required by the following statutes—

- (1) sections 272b, 281b(e), and 290a of title 22;
- (2) section 1874(c) of title 42; and
- (3) section 1203(e) of title 6, District of Columbia Code.

(b) When an investigation under subsection (a) of this section develops data indicating that the loyalty of the individual being investigated is questionable, the Office shall refer the matter to the Federal Bureau of Investigation for a full field investigation, a report of which shall be furnished to the Office for its information and appropriate action.

(c) When the President considers it in the national interest, he may have the investigations of a group or class, which are required by subsection (a) of this section, made by the Federal Bureau of Investigation rather than the Office.

(d) The investigation and report required by subsection (a) of this section shall be made by the Federal Bureau of Investigation rather than the Office for those specific positions which the Secretary of State certifies are of a high degree of importance or sensitivity.

(e)(1) A revolving fund is available, to the Office without fiscal year limitation, for financing investigations, training, and such other functions as the Office is authorized or required to perform on a reimbursable basis, including personnel management services performed at the request of individual agencies (which would otherwise be the responsibility of such agencies), or at the request of nonappropriated fund instrumentalities, and for the cost of audits, investigations, and oversight activities, conducted by the Inspector General of the Office, of the fund and the activities financed by the fund. However, the functions which may be financed in any fiscal year by the fund are restricted to those functions which are covered by the budget estimates submitted to the Congress for that fiscal year. To the maximum extent feasible, each individual activity shall be conducted generally

on an actual cost basis over a reasonable period of time.

(2) The capital of the fund consists of the aggregate of—

(A) appropriations made to provide capital for the fund, which appropriations are hereby authorized, and

(B) the sum of the fair and reasonable value of such supplies, equipment, and other assets as the Office from time to time transfers to the fund (including the amount of the unexpended balances of appropriations or funds relating to activities the financing of which is transferred to the fund) less the amount of related liabilities, the amount of unpaid obligations, and the value of accrued annual leave of employees, which are attributable to the activities the financing of which is transferred to the fund.

(3) The fund shall be credited with—

(A) advances and reimbursements from available funds of the Office or other agencies, or from other sources, for those services and supplies provided at rates estimated by the Office as adequate to recover expenses of operation (including provision for accrued annual leave of employees and depreciation of equipment); and

(B) receipts from sales or exchanges of property, and payments for loss of or damage to property, accounted for under the fund.

(4) Any unobligated and unexpended balances in the fund which the Office determines to be in excess of amounts needed for activities financed by the fund shall be deposited in the Treasury of the United States as miscellaneous receipts.

(5)(A) The Office shall prepare a business-type budget providing full disclosure of the results of operations for each of the functions performed by the Office and financed by the fund, and such budget shall be transmitted to the Congress and considered, in the manner prescribed by law for wholly owned Government corporations.

(B) Such budget shall include an estimate from the Inspector General of the Office of the amount required to pay the expenses to audit, investigate, and provide other oversight activities with respect to the fund and the activities financed by the fund.

(C) The amount requested by the Inspector General under subparagraph (B) shall not exceed .33 percent of the total budgetary authority requested by the Office under subparagraph (A).

(6) The Comptroller General of the United States shall, as a result of his periodic reviews of the activities financed by the fund, report and make such recommendations as he deems appropriate to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(f) An agency may use available appropriations to reimburse the Office or the Federal Bureau of Investigation for the cost of investigations, training, and functions performed for them under this section, or to make advances toward their cost. These advances and reimbursements shall be credited directly to the applicable appropriations of the Office or the Federal Bureau of Investigation.

(g) This section does not affect the responsibility of the Federal Bureau of Investigation to investigate espionage, sabotage, or subversive acts.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 91-189, §1, Dec. 30, 1969, 83 Stat. 851; Pub. L. 91-648, title V, §510, Jan. 5, 1971, 84 Stat. 1928; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-60, title II, §203(a)(2), Aug. 15, 1979, 93 Stat. 398; Pub. L. 97-412, §1(a), Jan. 3, 1983, 96 Stat. 2047; Pub. L. 98-224, §5(b)(1), Mar. 2, 1984, 98 Stat. 48; Pub. L. 103-437, §3(a), Nov. 2, 1994, 108 Stat. 4581; Pub. L. 104-66, title II, §2182, Dec. 21, 1995, 109 Stat. 732; Pub. L. 104-208, div. A, title I, §101(f) [title IV, §421], Sept. 30, 1996, 110 Stat. 3009-314, 3009-343; Pub. L. 113-80, §2, Feb. 12, 2014, 128 Stat. 1006.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(b)-(d)	5 U.S.C. 655.	Apr. 5, 1952, ch. 159, §1 (provisos), 66 Stat. 44. July 31, 1953, ch. 283, §9, 67 Stat. 241.
(e)	5 U.S.C. 657.	June 5, 1952, ch. 369, §701 (par. under "Civil Service Commission"), 66 Stat. 107.
(f)	[Uncodified].	Apr. 5, 1952, ch. 159, §4, 66 Stat. 44.
(g)	5 U.S.C. 656.	Apr. 5, 1952, ch. 159, §3, 66 Stat. 44.

Subsection (a) is based on section 1 of the Act of April 5, 1952, as amended, and is added for clarity. In subsection (a), the reference to section 10(b)(5)(B)(i) and (B)(ii) of the Act of August 1, 1946 (60 Stat. 766) is omitted because of the amendment of the Act of April 5, 1952, by the Act of July 31, 1953, ch. 283, 67 Stat. 240, and the reenactment of the provisions of the Act of April 5, 1952, insofar as they relate to the Atomic Energy Commission as section 145 of the Atomic Energy Act of 1954 (68 Stat. 942; 42 U.S.C. 2165). The references to section 1(2) of the Act of May 22, 1947 (61 Stat. 125), section 1 of the joint resolution of May 21, 1947 (61 Stat. 125), and section 110(c) of the Act of April 3, 1948 (62 Stat. 137) are omitted as these Acts were repealed by the Act of Aug. 26, 1954, ch. 937 §542(a) (1), (2), and (4), 68 Stat. 861. Reference to section 510 of the Mutual Security Act of 1951 (65 Stat. 381) is omitted because this section was replaced by section 531 of the Mutual Security Act of 1954 (68 Stat. 859) and the latter was repealed by the Act of Sept. 4, 1961, Pub. L. 87-195, §642(2), 75 Stat. 460.

In subsection (d), the references to section 10(b)(5)(B)(i) and (ii) of the Atomic Energy Act of 1946, section 510 of the Mutual Security Act of 1951, a majority of the members of the Atomic Energy Commission, and the Director of Mutual Security (which was changed to Director of the International Cooperation Administration on authority of section 8 of 1953 Reorg. Plan No. 7, 67 Stat. 641, and Executive Order 10610 of May 9, 1955) are omitted because of the disposition of the two sections as explained with reference to subsection (a).

In subsection (e), the words "There is established" are omitted as executed.

In subsection (g), the reference to statutes other than this section is omitted because nothing in those statutes affect the responsibility in question.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 1874(c) of title 42, referred to in subsec. (a)(2), which related to clearance of National Science Founda-

tion personnel, was repealed by Pub. L. 96-516, §21(b)(1), Dec. 12, 1980, 94 Stat. 3010.

AMENDMENTS

2014—Subsec. (e)(1). Pub. L. 113-80, §2(1), inserted “, and for the cost of audits, investigations, and oversight activities, conducted by the Inspector General of the Office, of the fund and the activities financed by the fund” before period at end of first sentence.

Subsec. (e)(5). Pub. L. 113-80, §2(2), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

1996—Subsec. (e)(1). Pub. L. 104-208 inserted “, including personnel management services performed at the request of individual agencies (which would otherwise be the responsibility of such agencies), or at the request of nonappropriated fund instrumentalities” before period at end of first sentence.

1995—Subsec. (e)(6). Pub. L. 104-66 struck out before period at end “at least once every three years”.

1994—Subsec. (e)(6). Pub. L. 103-437 substituted “Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House” for “Committees on Post Office and Civil Service of the Senate and House”.

1984—Subsec. (e)(1). Pub. L. 98-224 struck out cl. (i) designation and struck out cl. (ii) which provided that participation fees imposed by the President’s Commission on Executive Exchange for private sector participation in its Executive Exchange Program be collected and credited to the fund, and be available for the costs of education and related travel of exchanged executives, for printing without regard to section 501 of title 44, and, in such amounts as specified in appropriations Acts, for entertainment expenses. See section 4109(d) of this title.

1983—Subsec. (e)(1). Pub. L. 97-412 designated existing provisions as cl. (i) and added cl. (ii).

1979—Subsec. (a)(1). Pub. L. 96-60 struck out reference to section 1434 of title 22.

1978—Subsecs. (a) to (f). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission” and “Office” for “Commission” wherever appearing.

1971—Subsec. (e). Pub. L. 91-648 struck out in par. (1) “of \$4,000,000” after “revolving fund” and inserted in par. (2)(A) “, which appropriations are hereby authorized”.

1969—Subsec. (e). Pub. L. 91-189, §1(a), increased the scope of reimbursable services for which the fund may be used, restricted reimbursement to services which were included in the budget estimates submitted to Congress for that fiscal year, inserted a list of components which comprise the fund, specifically listed those items that would be credited directly to the capital fund, required that a budget be prepared by the Commission, and directed the Comptroller General as a result of the activities financed to make recommendations to the committees on Post Office and Civil Service of the Senate and House of Representatives at least once every three years.

Subsec. (f). Pub. L. 91-189, §1(b), authorized an agency to use available appropriations to reimburse the Commission or the Federal Bureau of Investigation for the cost of training and functions performed.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-412, §1(b), Jan. 3, 1983, 96 Stat. 2047, provided that: “The authority granted in subsection (a) [amending this section] shall terminate on December 31, 1983.”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-60 effective Oct. 1, 1979, see section 209 of Pub. L. 96-60, set out as a note under section 1471 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

ABOLITION OF HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight, see section 1(b) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 1305. Administrative law judges

For the purpose of sections 3105, 3344, 4301(2)(D), and 5372 of this title and the provisions of section 5335(a)(B) of this title that relate to administrative law judges, the Office of Personnel Management may, and for the purpose of section 7521 of this title, the Merit Systems Protection Board may investigate, prescribe regulations, appoint advisory committees as necessary, recommend legislation, subpoena witnesses and records, and pay witness fees as established for the courts of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 90-83, §1(3), Sept. 11, 1967, 81 Stat. 196; Pub. L. 95-251, §2(a)(1), (b)(1), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title VIII, §801(a)(3)(B)(iii), title IX, §906(a)(12), Oct. 13, 1978, 92 Stat. 1221, 1225; Pub. L. 102-378, §2(4), Oct. 2, 1992, 106 Stat. 1346; Pub. L. 105-362, title XIII, §1302(a), Nov. 10, 1998, 112 Stat. 3293.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 1010 (5th sentence), June 11, 1946, ch. 324, §11 (5th sentence), 60 Stat. 244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 1305 to correct a typographical error.

AMENDMENTS

1998—Pub. L. 105-362 struck out “require reports by agencies, issue reports, including an annual report to Congress,” after “may investigate.”

1992—Pub. L. 102-378 substituted “sections 3105” for “section 3105”.

1978—Pub. L. 95-454 substituted provisions respecting functions pursuant to specified sections of this title of

the Office of Personnel Management and the Merit Systems Protection Board for provisions respecting the functions pursuant to specified sections of this title of the Civil Service Commission.

Pub. L. 95-251 substituted “Administrative law judges” for “Hearing examiners” in section catchline and “administrative law judges” for “hearing examiners” in text.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 801(a)(3)(B)(iii) of Pub. L. 95-454 substituting “5372” for “5362” effective on first day of first applicable pay period beginning on or after the 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of this title.

Amendment by section 906(a)(12) of Pub. L. 95-454 respecting functions of the Office and the Board effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, excluding committees composed wholly of full-time officers or employees of the Federal Government, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to this title.

§ 1306. Oaths to witnesses

The Director of the Office of Personnel Management and authorized representatives of the Director may administer oaths to witnesses in matters pending before the Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 95-454, title IX, §906(a)(13), Oct. 13, 1978, 92 Stat. 1226.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 634, Aug. 23, 1912, ch. 350, §1 (last par. under “Civil Service Commission”), 37 Stat. 372. Row 2: [Uncodified], 1949 Reorg. Plan No. 5, §2(c), eff. Aug. 19, 1949, 63 Stat. 1069.

The section is rewritten to reflect expansion of authority of the Commission to include its Chairman under section 2(c) of 1949 Reorg. Plan No. 5.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95-454 substituted provisions respecting powers of the Director of the Office of Personnel Management in administering oaths in matters before the Office for provisions respecting powers of the Chairman of the Civil Service Commission and each Commissioner in administering oaths in matters before the Commission.