

§ 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