

of this title, and Executive orders issued in furtherance thereof, that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the competitive service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(c) The Office shall prescribe regulations for the administration of the provisions of this title that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the excepted service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(d) The Office may prescribe reasonable procedure and regulations for the administration of its functions under chapter 15 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

emergency establishment, agency, bureau, administration, project, and department created by Acts of Congress or Presidential Executive order”, in view of the exclusion of positions in the legislative and judicial branches by former section 869.

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

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.

EXECUTIVE ORDER NO. 10561

Ex. Ord. No. 10561, Sept. 13, 1954, 19 F.R. 5963, which related to official personnel folders, was revoked by section 2-201 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out as a note under section 1101 of this title.

EXECUTIVE ORDER NO. 11397

Ex. Ord. No. 11397, Feb. 9, 1968, 33 F.R. 2833, formerly set out as a note under this section, which related to transitional appointments of veterans who served during the Vietnam Era, was revoked by Ex. Ord. No. 11521, Mar. 26, 1970, 35 F.R. 5311, set out as a note under section 3302 of this title.

§ 1303. Investigations; reports

The Office of Personnel Management, Merit Systems Protection Board, and Special Counsel may investigate and report on matters concerning—

- (1) the enforcement and effect of the rules prescribed by the President under this title for the administration of the competitive service and the regulations prescribed by the Office of Personnel Management under section 1302(a) of this title; and
- (2) the action of an examiner, a board of examiners, and other employees concerning the execution of the provisions of this title that relate to the administration of the competitive service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 95-454, title IX, §906(a)(4), (11), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	5 U.S.C. 633(2)7 (last 17 words), (3) (less last 10 words).	Jan. 16, 1883, ch. 27, §§2(2)7 (last 17 words), (3) (less last 10 words), 22 Stat. 404.
(b) .....	5 U.S.C. 851 (1st 76 words), 868 (less proviso).	June 27, 1944, ch. 287, §§2 (1st 76 words), 19, 58 Stat. 387, 391.
(c) .....	5 U.S.C. 851 (1st 76 words), 860.	June 27, 1944, ch. 287, §§2 (1st 76 words), 11, 58 Stat. 387, 390.
(d) .....	5 U.S.C. 118k(d) (1st sentence).	July 19, 1940, ch. 640 §4 “Sec. 12(d) (1st sentence)”, 54 Stat. 769.

Subsection (a) is based on former section 633(3) (less last 10 words). The regulation-making power conferred by that section covers the power conferred by former section 633(2)7 (last 17 words) which is, therefore, omitted. The requirement of notice is preserved in section 3304. The words “through its members or the examiners” are omitted as unnecessary in view of section 1104. The authority of the President to prescribe rules, based on former section 633(1) is carried into sections 2951, 3302, 3304(a), 3306(a), 3321, 7152, 7153, 7321, and 7322 of this title.

In subsections (b)–(d), the word “rules” is omitted as included in “regulations”.

The provisions of the Veterans’ Preference Act of 1944 (former sections 851-869) to which the regulation-making authority of subsections (b) and (c) apply are carried into sections 2108, 3305(b), 3306(a)(2), 3308-3320, 3351, 3363, 3364, and 7701, subchapter I of chapter 35, and subchapter II of chapter 75 of this title. The first 76 words of former section 851 are added here to preserve the general statement of policy in the light of which the substantive provisions that formerly comprised the Veterans’ Preference Act of 1944 are to be interpreted. See *Elder v. Brannan*, 241 U.S. 277, 286. In subsection (b), the words “in the competitive service in Executive agencies, permanent or temporary, and in the government of the District of Columbia”, and in subsection (c) the words “in the excepted service in Executive agencies, permanent or temporary, and in the government of the District of Columbia” are coextensive with and substituted for “in civilian positions in all establishments, agencies, bureaus, administrations, projects, and departments of the Government, permanent or temporary, and in either (a) the classified civil service; (b) the unclassified civil service; (c) any temporary or

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 633(4).	Jan. 16, 1883, ch. 27, §2(4), 22 Stat. 404.

The authority of the President to prescribe rules is carried into sections 2951, 3302, 3304(a), 3306(a), 3321, 7152, 7153, 7321, and 7322 of this title.

In paragraph (2), the words “in respect to the execution of this act” are changed to “concerning the execution of the provisions of this title that relate to the administration of the competitive service” to avoid having to refer in the text to the sections of this title into which the Civil Service Act, the act referred to, is codified. These sections are: 1101, 1102, 1105, 1302(a), 1303, 1307, 1308(a)(1), 2102, 2951, 3302, 3303, 3304(a), (d), 3305(a), 3306, 3318(a), 3319(a), 3321, 7152, 7153, 7321, 7322, and 7352. The words “the provisions of this title that relate to the administration of the competitive service” will include some of the sections derived from the Veterans’

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.