

eral subcontracting reporting system is modified to notify the Administrator, the appropriate Director of the Office of Small and Disadvantaged Business Utilization, and the appropriate contracting officer if a requirement established under section 657s of this title is violated.

(Pub. L. 85-536, §2[16], July 18, 1958, 72 Stat. 395; Pub. L. 88-264, §2, Feb. 5, 1964, 78 Stat. 8; Pub. L. 99-272, title XVIII, §18009, Apr. 7, 1986, 100 Stat. 368; Pub. L. 100-656, title IV, §405, Nov. 15, 1988, 102 Stat. 3875; Pub. L. 103-355, title VII, §7106(c), Oct. 13, 1994, 108 Stat. 3376; Pub. L. 105-85, div. A, title X, §1073(g)(4), Nov. 18, 1997, 111 Stat. 1906; Pub. L. 105-135, title VI, §603(c), Dec. 2, 1997, 111 Stat. 2632; Pub. L. 112-239, div. A, title XVI, §§1652, 1681(a), 1682(a), Jan. 2, 2013, 126 Stat. 2081, 2085, 2086.)

#### REFERENCES IN TEXT

The Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801-3812), referred to in subsec. (d)(2)(B), is subtitle B of title VI of Pub. L. 99-509, Oct. 21, 1986, 100 Stat. 1934, as amended, which is classified generally to chapter 38 (§3801 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 3801 of Title 31 and Tables.

The Small Business Investment Act of 1958, referred to in subsec. (d)(2)(D), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

#### PRIOR PROVISIONS

Prior similar provisions were contained in section 209 of act July 30, 1953, ch. 282, title II, 67 Stat. 237, which was previously classified to section 638 of this title. The provisions of section 216 of act July 30, 1953, formerly classified to this section, were transferred to section 2[8] of Pub. L. 85-536, which was classified to section 637(c) of this title prior to repeal by Pub. L. 102-191. See section 656 of this title.

#### AMENDMENTS

2013—Subsec. (d)(2)(C). Pub. L. 112-239, §1682(a), struck out “on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government or a subcontract under such a contract” after “regulation”).

Subsec. (d)(3). Pub. L. 112-239, §1681(a), added par. (3). Subsec. (g). Pub. L. 112-239, §1652, added subsec. (g).

1997—Subsec. (d)(1). Pub. L. 105-135, §603(c)(1)(A), inserted “, a ‘qualified HUBZone small business concern’,” after “‘small business concern’,”.

Pub. L. 105-85 substituted “concern owned and controlled by women” for “concerns owned and controlled by women”.

Subsec. (d)(1)(A). Pub. L. 105-135, §603(c)(1)(B), substituted “section 638, 644, or 657a” for “section 638 or 644”.

Subsec. (e). Pub. L. 105-135, §603(c)(2), inserted “, a ‘HUBZone small business concern’,” after “‘small business concern’,”.

Pub. L. 105-85 substituted “concern owned and controlled by women” for “concerns owned and controlled by women”.

1994—Subsec. (d)(1). Pub. L. 103-355, §7106(c)(1), substituted “, a ‘small business concern owned and controlled by socially and economically disadvantaged individuals’, or a ‘small business concerns owned and controlled by women’” for “‘or ‘small business concern owned and controlled by socially and economically disadvantaged individuals’”.

Subsec. (e). Pub. L. 103-355, §7106(c)(2), substituted “, a ‘small business concern owned and controlled by socially and economically disadvantaged individuals’, or a ‘small business concerns owned and controlled by women’” for “‘or ‘small business concern owned and controlled by socially and economically disadvantaged individuals’”.

1988—Subsec. (d). Pub. L. 100-656, §405(a), amended subsec. (d) generally, designating existing provisions as par. (1), redesignating former pars. (1) to (4) as subpars. (A) to (D), respectively, and in subpar. (D), substituting “subject to the penalties and remedies described in paragraph (2)” for “punished by a fine of not more than \$50,000 or by imprisonment for not more than five years, or both”, and adding par. (2).

Subsec. (f). Pub. L. 100-656, §405(b), added subsec. (f). 1986—Subsecs. (d), (e). Pub. L. 99-272 added subsecs. (d) and (e).

1964—Subsec. (c). Pub. L. 88-264 added subsec. (c).

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-135 effective Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as a note under section 631 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 2302 of Title 10, Armed Forces.

#### REGULATIONS

Pub. L. 112-239, div. A, title XVI, §1681(b), Jan. 2, 2013, 126 Stat. 2085, provided that: “Not later than 270 days after the date of enactment of this part [Jan. 2, 2013], the Administrator of the Small Business Administration shall issue rules defining what constitutes an adequate advisory opinion for purposes of section 16(d)(3) of the Small Business Act [15 U.S.C. 645(d)(3)].”

#### DEVELOPMENT AND PROMULGATION OF GUIDANCE

Pub. L. 112-239, div. A, title XVI, §1682(b), Jan. 2, 2013, 126 Stat. 2086, provided that: “Not later than 270 days after the date of enactment of this part [Jan. 2, 2013], the Administrator of the Small Business Administration shall develop and promulgate guidance implementing this section [amending this section and enacting provisions set out as a note below].”

#### PUBLICATION OF PROCEDURES REGARDING SUSPENSION AND DEBARMENT

Pub. L. 112-239, div. A, title XVI, §1682(c), Jan. 2, 2013, 126 Stat. 2086, provided that: “Not later than 270 days after the date of enactment of this part [Jan. 2, 2013], the Administrator [of the Small Business Administration] shall publish and maintain on the [Small Business] Administration’s Web site the current standard operating procedures of the Administration for suspension and debarment, and the name and contact information for the individual designated by the Administrator as the senior individual responsible for suspension and debarment proceedings.”

### § 645a. Annual report on suspensions and debarments proposed by Small Business Administration

#### (a) Report requirement

The Administrator of the Small Business Administration shall submit each year to the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report on the suspension and debarment actions taken by the Administrator during the year preceding the year of submission of the report.

**(b) Matters covered**

The report required by subsection (a) shall include the following information for the year covered by the report:

**(1) Number**

The number of contractors proposed for suspension or debarment.

**(2) Source**

The office within a Federal agency that originated each proposal for suspension or debarment.

**(3) Reasons**

The reason for each proposal for suspension or debarment.

**(4) Results**

The result of each proposal for suspension or debarment, and the reason for such result.

**(5) Referrals**

The number of suspensions or debarments referred to the Inspector General of the Small Business Administration or another agency, or to the Attorney General (for purposes of this paragraph, the Administrator may redact identifying information on names of companies or other information in order to protect the integrity of any ongoing criminal or civil investigation).

(Pub. L. 112-239, div. A, title XVI, §1683, Jan. 2, 2013, 126 Stat. 2086.)

## CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Small Business Act which comprises this chapter.

**§ 646. Liens**

Any interest held by the Administration in property, as security for a loan, shall be subordinate to any lien on such property for taxes due on the property to a State, or political subdivision thereof, in any case where such lien would, under applicable State law, be superior to such interest if such interest were held by any party other than the United States.

(Pub. L. 85-536, §2[17], July 18, 1958, 72 Stat. 396.)

## PRIOR PROVISIONS

Section 217 of act July 30, 1953, ch. 282, title II, 67 Stat. 239, was previously classified to this section. See section 640 of this title, and Codification note set out under section 631 of this title.

**§ 647. Duplication of activities of other Federal departments or agencies****(a) General prohibition; exception**

The Administration shall not duplicate the work or activity of any other department or agency of the Federal Government,<sup>1</sup> and nothing contained in this chapter shall be construed to authorize any such duplication unless such work or activity is expressly provided for in this chapter. If loan applications are being refused or loans denied by such other department or agen-

cy responsible for such work or activity due to administrative withholding from obligation or withholding from apportionment, or due to administratively declared moratorium, then, for purposes of this section, no duplication shall be deemed to have occurred.

**(b) Definitions**

As used in this chapter—

(1) “agricultural enterprises” means those small business concerns engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

(2) “credit elsewhere” means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.

(Pub. L. 85-536, §2[18], July 18, 1958, 72 Stat. 396; Pub. L. 93-386, §5, Aug. 23, 1974, 88 Stat. 746; Pub. L. 94-305, title I, §112(e), June 4, 1976, 90 Stat. 667; Pub. L. 96-38, title I, §101(c), July 25, 1979, 93 Stat. 119; Pub. L. 96-302, title I, §119(c), July 2, 1980, 94 Stat. 841; Pub. L. 98-270, title III, §303, Apr. 18, 1984, 98 Stat. 160; Pub. L. 98-369, div. B, title IV, §2401, July 18, 1984, 98 Stat. 1116; Pub. L. 99-272, title XVIII, §18006(a)(3), Apr. 7, 1986, 100 Stat. 366; Pub. L. 114-328, div. A, title XVIII, §1831(a), Dec. 23, 2016, 130 Stat. 2657.)

## PRIOR PROVISIONS

Prior similar provisions were contained in section 225, of act July 30, 1953, ch. 282, as added by act Aug. 9, 1955, ch. 628, §14, 69 Stat. 551, which was previously classified to section 651 of this title. The provisions of section 218 of act July 30, 1953, formerly classified to this section, were transferred to section 2[12] of Pub. L. 85-536, and are classified to section 641 of this title. See Codification note set out under section 631 of this title.

## AMENDMENTS

2016—Subsec. (b)(1). Pub. L. 114-328 substituted “small business concerns” for “businesses”.

1986—Subsec. (a). Pub. L. 99-272 struck out agricultural enterprises exception and proviso that, prior to Oct. 1, 1987, an agricultural enterprise not be eligible for loan assistance under section 636(b)(1) of this title to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act.

1984—Subsec. (a). Pub. L. 98-369 substituted “October 1, 1987” for “October 1, 1986”.

Pub. L. 98-270 substituted “October 1, 1986” for “October 1, 1983”.

1980—Subsec. (a). Pub. L. 96-302, §119(c)(1), inserted proviso relating to eligibility for loan assistance prior to October 1, 1983.

Subsec. (b). Pub. L. 96-302, §119(c)(2), added par. (1) and designated as par. (2) existing definition of “credit elsewhere”.

1979—Pub. L. 96-38 designated existing provisions as subsec. (a) and added subsec. (b).

1976—Pub. L. 94-305 inserted reference to those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries.

1974—Pub. L. 93-386 inserted provision authorizing the refusal of loan applications and the denial of loans, for

<sup>1</sup> So in original.