

EFFECTIVE DATE

Pub. L. 101-189, div. A, title III, §342(b), Nov. 29, 1989, 103 Stat. 1420, provided that:

“(1) Subsection (a) of section 2772 of such title [10 U.S.C. 2772(a)], as added by subsection (a), shall apply with respect to fines and forfeitures adjudged after the date of the enactment of this Act [Nov. 29, 1989].

“(2) Subsection (b) of such section shall apply with respect to fines and forfeitures adjudged after May 31, 1990.”

§ 2773. Designation, powers, and accountability of deputy disbursing officials

(a)(1) Subject to paragraph (3), a disbursing official of the Department of Defense may designate a deputy disbursing official—

(A) to make payments as the agent of the disbursing official;

(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

(C) to carry out other duties required under law.

(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Defense or, in the case of a disbursing official of a military department, the Secretary of that military department.

(b)(1) If a disbursing official of the Department of Defense dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the 2d month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

(Added Pub. L. 87-480, §1(1)(A), June 8, 1962, 76 Stat. 94; amended Pub. L. 97-258, §2(b)(7)(B), Sept. 13, 1982, 96 Stat. 1054; Pub. L. 104-106, div. A, title IX, §913(a)(2), Feb. 10, 1996, 110 Stat. 410.)

HISTORICAL AND REVISION NOTES
1982 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|----------------------|---|
| 2773(a) | 10:2773. 31:103a. | July 3, 1926, ch. 775, 44 Stat. 888; June 6, 1972, Pub. L. 92-310, §231(bb), 86 Stat. 212. |
| 2773(b) | 31:103b. | July 31, 1953, ch. 300, 67 Stat. 296; June 6, 1972, Pub. L. 92-310, §231(ff), 86 Stat. 213. |

In the section, the words “disbursing official” are substituted for “disbursing officer” for consistency with other titles of the United States Code. The words “Secretary of the Treasury” are substituted for “Treasurer of the United States” because of section 1(a) of Reorganization Plan No. 26 of 1950 (eff. July 31, 1950, 64 Stat. 1280), restated as section 321 of the revised

title contained in section 1 of the bill. The text of 10:2773 is omitted as being superseded by 31:103a and 103b.

In subsection (a)(1), before clause (A), the words “With the approval of a Secretary of a military department when the Secretary considers it necessary” are substituted for “When, in the opinion of the Secretary of the Army, Navy, or Air Force, the exigencies of the service so require . . . with the approval of the head of their executive department” in 31:103a because of 10:101(7), to eliminate unnecessary words, and for consistency. The title of Secretary of War was changed to Secretary of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). The Secretary of the Air Force is included because of sections 205(a) and 207(a) and (f) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501, 502), and section 1 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 488). The words “deputy disbursing official” are substituted for “deputies” for clarity. In clause (A), the words “to make payments” are substituted for “for the purpose of having them make disbursements” to eliminate unnecessary words. In clause (C), the words “to be performed by such disbursing officers” are omitted as unnecessary.

In subsection (a)(2), the words “deputy disbursing official” are substituted for “agent officer” for clarity and consistency.

In subsection (b)(1), the word “disabled” is substituted for “incapacity” for consistency in the title. The word “until” is substituted for “for a period of time not to extend beyond” to eliminate unnecessary words.

In subsection (b)(2), the words “The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official” are substituted for “The former disbursing officer or his estate . . . but the deputy disbursing officer shall be responsible therefor” for clarity and because of the restatement. The word “liable” is substituted for “subject to any legal liability or penalty” to eliminate unnecessary words. The word “actions” is substituted for “official acts and defaults”. The words “in the name or in the place of the former disbursing officer” are omitted as unnecessary.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-106, §913(a)(2)(A)(i), substituted “Subject to paragraph (3), a disbursing official of the Department of Defense” for “With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department”.

Subsec. (a)(3). Pub. L. 104-106, §913(a)(2)(A)(ii), added par. (3).

Subsec. (b)(1). Pub. L. 104-106, §913(a)(2)(B), substituted “the Department of Defense” for “any military department”.

1982—Pub. L. 97-258 substituted provisions authorizing a disbursing official of a military department to designate a deputy disbursing official with the same duties and penalties for misconduct as those of the disbursing official and allowing a deputy disbursing official to continue the accounts and payments in the name of a former disbursing official for two months after the death, disability, or separation of the former disbursing official for provisions authorizing any officer of an armed force accountable for public money to entrust it to another officer of an armed force to make disbursement as his agent, with both officers pecuniarily responsible to the United States for that money.

§ 2773a. Departmental accountable officials

(a) DESIGNATION BY SECRETARY OF DEFENSE.—The Secretary of Defense may designate any civilian employee of the Department of Defense or member of the armed forces under the Secretary’s jurisdiction who is described in sub-

section (b) as an employee or member who, in addition to any other potential accountability, may be held accountable through personal monetary liability for an illegal, improper, or incorrect payment made by the Department of Defense described in subsection (c). Any such designation shall be in writing. Any employee or member who is so designated may be referred to as a “departmental accountable official”.

(b) COVERED EMPLOYEES AND MEMBERS.—An employee or member of the armed forces described in this subsection is an employee or member who—

(1) is responsible in the performance of the employee’s or member’s duties for providing to a certifying official of the Department of Defense information, data, or services that are directly relied upon by the certifying official in the certification of vouchers for payment; and

(2) is not otherwise accountable under subtitle III of title 31 or any other provision of law for payments made on the basis of such vouchers.

(c) PECUNIARY LIABILITY.—(1) The Secretary of Defense may subject a departmental accountable official to pecuniary liability for an illegal, improper, or incorrect payment made by the Department of Defense if the Secretary determines that such payment—

(A) resulted from information, data, or services that that official provided to a certifying official and upon which that certifying official directly relies in certifying the voucher supporting that payment; and

(B) was the result of fault or negligence on the part of that departmental accountable official.

(2) Pecuniary liability under this subsection shall apply in the same manner and to the same extent as applies to an official accountable under subtitle III of title 31.

(3) Any pecuniary liability of a departmental accountable official under this subsection for a loss to the United States resulting from an illegal, improper, or incorrect payment is joint and several with that of any other officer or employee of the United States or member of the uniformed services who is pecuniarily liable for such loss.

(d) CERTIFYING OFFICIAL DEFINED.—In this section, the term “certifying official” means an employee who has the responsibilities specified in section 3528(a) of title 31.

(Added Pub. L. 107-314, div. A, title X, §1005(a), Dec. 2, 2002, 116 Stat. 2631; amended Pub. L. 109-163, div. A, title X, §1056(c)(8), Jan. 6, 2006, 119 Stat. 3440.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 inserted “by” after “incorrect payment made”.

§ 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 De-

fense 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