

cost of producing and transmitting such electric energy, including the amortization of the capital investment over a reasonable period of years. Rate schedules shall be based upon an allocation of costs made by the Secretary of Energy. In computing the cost of electric energy developed from water power created as an incident to and a byproduct of the construction of the Bonneville project, the Secretary of Energy may allocate to the costs of electric facilities such a share of the cost of facilities having joint value for the production of electric energy and other purposes as the power development may fairly bear as compared with such other purposes.

(Aug. 20, 1937, ch. 720, §7, 50 Stat. 735; Pub. L. 95-91, title III, §301(b), Aug. 4, 1977, 91 Stat. 578.)

#### TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Federal Power Commission” pursuant to Pub. L. 95-91, §301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

#### § 832g. Purchase of supplies and services

Notwithstanding any other provision of law, all purchases and contracts made by the administrator or the Secretary of the Army for supplies or for services except for personal services, shall be made after advertising, in such manner and at such times, sufficiently in advance of opening bids, as the administrator or Secretary of the Army, as the case may be, shall determine to be adequate to insure notice and opportunity for competition. Such advertisement shall not be required, however, when (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed \$500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen. In comparing bids and in making awards, the administrator or the Secretary of the Army, as the case may be, may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

(Aug. 20, 1937, ch. 720, §8, 50 Stat. 735; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956,

ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

#### § 832h. Miscellaneous administrative provisions

##### (a) Accounts; audit; procedures, etc., prescribed

The administrator, subject to the requirements of the Federal Power Act [16 U.S.C. 791a et seq.], shall keep complete and accurate accounts of operations, including all funds expended and received in connection with transmission and sale of electric energy generated at the Bonneville project, and in the maintenance of such accounts, appropriate obligations shall be established for annual and sick leave of absence as earned. The Administrator shall, after the close of each fiscal year, obtain an independent commercial-type audit of such accounts. The forms, systems, and procedures prescribed by the Comptroller General for the Administrator's appropriation and fund accounting shall be in accordance with the requirements of the Federal Power Act with respect to accounts of electric operations of public utilities and the regulations of the Federal Energy Regulatory Commission pursuant thereto.

##### (b) Current expenses

The administrator may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for attendance at meetings; and for such other facilities and services as he may find necessary for the proper administration of this chapter.

(Aug. 20, 1937, ch. 720, §9, 50 Stat. 736; Oct. 23, 1945, ch. 433, §4, 59 Stat. 547; Pub. L. 89-448, §2(a), formerly §2, June 14, 1966, 80 Stat. 200, as renumbered Pub. L. 89-561, §6(1), Sept. 7, 1966, 80 Stat. 714; Pub. L. 95-91, title IV, §402(a)(1)(B), Aug. 4, 1977, 91 Stat. 583.)

#### REFERENCES IN TEXT

Federal Power Act, referred to in subsec. (a), was in the original the “Federal Water Power Act”, and was redesignated the Federal Power Act by section 791a of this title. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, and is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

#### AMENDMENTS

1966—Subsec. (c). Pub. L. 89-448 repealed subsec. (c) which provided for annual financial statement to Congress. See section 835j of this title.

1945—Subsec. (a). Act Oct. 23, 1945, inserted provisions relating to obligations for annual and sick leave of absence, annual commercial-type audits and forms, systems and procedures for the Administrator's appropriation and fund accounting.

#### TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Sec-

retary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

“Federal Energy Regulatory Commission” substituted for “Federal Power Commission” in subsec. (a) pursuant to Pub. L. 95-91, § 402(a)(1)(B), which is classified to section 7172(a)(1)(B) of Title 42.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

### § 832i. Employment of personnel

#### (a) Appointment of Assistant Administrator, chief engineer, and general counsel; compensation; duties

The Secretary of Energy shall appoint, without regard to the civil-service laws, an Assistant Administrator, chief engineer, and general counsel and shall fix the compensation of each in accordance with chapter 51 and subchapter III of chapter 53 of title 5. The Assistant Administrator shall perform the duties and exercise the powers of the Administrator, in the event of the absence or sickness of the Administrator until such absence or sickness shall cease and in the event of a vacancy in the office of Administrator until a successor is appointed.

#### (b) Officers and employees; compensation

The Administrator, the Secretary of the Army, and the Secretary of Energy, respectively, are authorized to appoint, subject to the civil-service laws, such officers and employees as may be necessary to carry out the purposes of this chapter, the appointment of whom is not otherwise provided for, and to fix their compensation in accordance with chapter 51 and subchapter III of chapter 53 of title 5. The Administrator may employ laborers, mechanics, and workmen in connection with construction work or the operation and maintenance of electrical facilities (hereinafter called “laborers, mechanics, and workmen”), subject to the civil-service laws. The Administrator is further authorized to employ physicians, under agreement and without regard to civil-service laws or regulations, to make physical examinations of employees or prospective employees who are or may become laborers, mechanics, and workmen. The Administrator, the Secretary of the Army, and the Secretary of Energy, respectively, are also authorized to appoint, without regard to the civil-service laws, such experts as may be necessary for carrying out the functions entrusted to them under this chapter.

#### (c) Voluntary and uncompensated services; utilization of personnel and equipment of other governmental agencies

The Administrator may accept and utilize such voluntary and uncompensated services and

with the consent of the agency concerned may utilize such officers, employees, or equipment of any agency of the Federal, State, or local governments which he finds helpful in carrying out the purposes of this chapter; in connection with the utilization of such services, reasonable payments may be allowed for necessary travel and other expenses.

(Aug. 20, 1937, ch. 720, § 10, 50 Stat. 736; Oct. 23, 1945, ch. 433, § 5, 59 Stat. 547; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972; Pub. L. 95-91, title III, §§ 301(b), 302(a)(1)(D), (2), Aug. 4, 1977, 91 Stat. 578.)

#### CODIFICATION

In subsecs. (a) and (b), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949, as amended” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of the second and fourth sentences of subsec. (b) which authorized the Administrator to fix the compensation of laborers, mechanics and workmen without regard to the Classification Act of 1923, and any other laws, rules, or regulations relating to the payment of employees of the United States and which authorized the Administrator, the Secretary of the Army and the Secretary of Energy to fix the compensation of experts without regard to the Classification Act of 1923, were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). [But see *Abell v. United States*, 1975, 518 F.2d 1369, cert. denied 429 U.S. 817, and *Columbia Power Trades Council v. United States Department of Energy*, 1980, 496 F.Supp. 186.] The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 632 (the first section of which revised and enacted Title 5, Government Organization and Employees, into law). Section 5102 of Title 5 contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

#### AMENDMENTS

1949—Subsecs. (a) and (b). Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

1945—Act Oct. 23, 1945, added subsecs. (a) and (c), designated existing provisions as subsec. (b), and amended such provisions generally.

#### REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.