REPEAL OF SECTION

Section repealed effective six years after Nov. 29, 1990, see section 5 of Pub. L. 101–648, as amended, set out as an Effective Date of Repeal; Savings Provision note under section 561 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 590 of this title as this section.

SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

TERMINATION OF SUBCHAPTER

For termination of subchapter by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

CODIFICATION

Another subchapter IV (§ 581 et seq.) relating to negotiated rulemaking procedure was redesignated subchapter III (§ 561 et seq.) of this chapter.

AMENDMENTS

1992—Pub. L. 102–354, § 3(b)(1), Aug. 26, 1992, 106 Stat. 944, transferred this subchapter so as to appear immediately after subchapter III of this chapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 556 of this title; title 12 section 4806; title 25 sections 450j, 450*l*; title 28 section 2672; title 29 section 173; title 41 section 605.

§ 571. Definitions

For the purposes of this subchapter, the term—

(1) ''agency'' has the same meaning as in section 551(1) of this title;

(2) ''administrative program'' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

(3) ''alternative means of dispute resolution'' means any procedure that is used, in lieu of an adjudication as defined in section 551(7) of this title, to resolve issues in controversy, including, but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

(4) ''award'' means any decision by an arbitrator resolving the issues in controversy;

(5) ''dispute resolution communication'' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(6) ''dispute resolution proceeding'' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

(7) ''in confidence'' means, with respect to information, that the information is provided—

(A) with the expressed intent of the source that it not be disclosed; or

(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

(8) ''issue in controversy'' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement—

(A) between an agency and persons who would be substantially affected by the decision; or

(B) between persons who would be substantially affected by the decision,

except that such term shall not include any matter specified under section 2302 or 7121(c) of this title;

(9) ''neutral'' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

(10) ''party'' means—

(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

(11) ''person'' has the same meaning as in section 551(2) of this title; and

(12) ''roster'' means a list of persons qualified to provide services as neutrals.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2738, § 581; renumbered § 571 and amended Pub. L. 102–354, §§ 3(b)(2), 5(b)(1), (2), Aug. 26, 1992, 106 Stat. 944, 946.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note below.

CODIFICATION

Section 571 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2256 of Title 7, Agriculture.

PRIOR PROVISIONS

A prior section 571 was renumbered section 591 of this title.

AMENDMENTS

1992—Pub. L. 102–354, § 3(b)(2), renumbered section 581 of this title as this section.

Par. (3). Pub. L. 102–354, § 5(b)(1), inserted comma after ''including''.

Par. (8). Pub. L. 102–354, § 5(b)(2), amended par. (8) generally. Prior to amendment, par. (8) read as follows: '' 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement between the agency and persons who would be substantially affected by the decision but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of title 5;''.

TERMINATION DATE; SAVINGS PROVISION

Section 11 of Pub. L. 101–552 provided that: ''The authority of agencies to use dispute resolution proceedings under this Act [see Short Title note below] and the amendments made by this Act shall terminate on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to the dispute resolution proceedings, require such continuation, until such proceedings terminate.''

SHORT TITLE

Section 1 of Pub. L. 101–552 provided that: ''This Act [enacting this subchapter, amending section 556 of this title, section 10 of Title 9, Arbitration, section 2672 of Title 28, Judiciary and Judicial Procedure, section 173 of Title 29, Labor, section 3711 of Title 31, Money and Finance, and sections 605 and 607 of Title 41, Public Contracts, and enacting provisions set out as notes under this section] may be cited as the 'Administrative Dispute Resolution Act'.''

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 101–552 provided that: ''The Congress finds that—

''(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer a prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

''(2) administrative proceedings have become increasingly formal, costly, and lengthy resulting in unnecessary expenditures of time and in a decreased likelihood of achieving consensual resolution of disputes;

''(3) alternative means of dispute resolution have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

''(4) such alternative means can lead to more creative, efficient, and sensible outcomes;

''(5) such alternative means may be used advantageously in a wide variety of administrative programs;

''(6) explicit authorization of the use of well-tested dispute resolution techniques will eliminate ambiguity of agency authority under existing law;

''(7) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

''(8) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.''

PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION

Section 3 of Pub. L. 101–552 provided that:

''(a) PROMULGATION OF AGENCY POLICY.—Each agency shall adopt a policy that addresses the use of alternative means of dispute resolution and case management. In developing such a policy, each agency shall—

''(1) consult with the Administrative Conference of the United States and the Federal Mediation and Conciliation Service; and

''(2) examine alternative means of resolving disputes in connection with—

''(A) formal and informal adjudications;

''(B) rulemakings;

''(C) enforcement actions;

''(D) issuing and revoking licenses or permits;

''(E) contract administration;

''(F) litigation brought by or against the agency; and

''(G) other agency actions.

''(b) DISPUTE RESOLUTION SPECIALISTS.—The head of each agency shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall be responsible for the implementation of—

''(1) the provisions of this Act [see Short Title note above] and the amendments made by this Act; and

''(2) the agency policy developed under subsection (a).

''(c) TRAINING.—Each agency shall provide for training on a regular basis for the dispute resolution specialist of the agency and other employees involved in implementing the policy of the agency developed under subsection (a). Such training should encompass the theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head agency employees who would benefit from similar training.

''(d) PROCEDURES FOR GRANTS AND CONTRACTS.—

''(1) Each agency shall review each of its standard agreements for contracts, grants, and other assistance and shall determine whether to amend any such standard agreements to authorize and encourage the use of alternative means of dispute resolution.

''(2)(A) Within 1 year after the date of the enactment of this Act [Nov. 15, 1990], the Federal Acquisition Regulation shall be amended, as necessary, to carry out this Act [see Short Title note above] and the amendments made by this Act.

''(B) For purposes of this section, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)).''

USE OF NONATTORNEYS

Section 9 of Pub. L. 101–552 provided that:

''(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act [see Short Title note above], shall develop a policy with regard to the representation by persons other than attorneys of parties in alternative dispute resolution proceedings and shall identify any of its administrative programs with numerous claims or disputes before the agency and determine—

''(1) the extent to which individuals are represented or assisted by attorneys or by persons who are not attorneys; and

''(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

''(b) REPRESENTATION AND ASSISTANCE BY NONATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

''(1) such claim or dispute concerns an administrative program identified under subsection (a);

''(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

''(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

''(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under subchapter IV of chapter 5 of title 5, United States Code, to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

''(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, as appropriate, to other persons who provide representation or assistance; and

''(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.''

DEFINITIONS

Section 10 of Pub. L. 101–552, as amended by Pub. L. 102–354, § 5(b)(6), Aug. 26, 1992, 106 Stat. 946, provided

that: ''As used in this Act [see Short Title note above], the terms 'agency', 'administrative program', and 'alternative means of dispute resolution' have the meanings given such terms in section 571 of title 5, United States Code (enacted as section 581 of title 5, United States Code, by section 4(b) of this Act, and redesignated as section 571 of such title by section 3(b) of the Administrative Procedure Technical Amendments Act of 1991 [Pub. L. 102–354]).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 4806.

§ 572. General authority

(a) An agency may use a dispute resolution proceeding for the resolution of an issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

(b) An agency shall consider not using a dispute resolution proceeding if—

(1) a definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

(5) a full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the agency's fulfilling that requirement.

(c) Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2739, § 582; renumbered § 572, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

CODIFICATION

Section 572 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2257 of Title 7, Agriculture.

PRIOR PROVISIONS

A prior section 572 was renumbered section 592 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 582 of this title as this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 9 section 10; title 41 section 605.

§ 573. Neutrals

(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

(c) In consultation with the Federal Mediation and Conciliation Service, other appropriate Federal agencies, and professional organizations experienced in matters concerning dispute resolution, the Administrative Conference of the United States shall—

(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential conflicts of interest, and other qualifications) to which agencies may refer;

(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request;

(3) enter into contracts for the services of neutrals that may be used by agencies on an elective basis in dispute resolution proceedings; and

(4) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

(d) An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

(e) Any agency may enter into a contract with any person on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual for services as a neutral, or for training in connection with alternative means of dispute resolution. The parties in a dispute resolution proceeding shall agree on compensation for the neutral that is fair and reasonable to the Government.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2739, § 583; renumbered § 573, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

CODIFICATION

Section 573 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2258 of Title 7, Agriculture.

PRIOR PROVISIONS

A prior section 573 was renumbered section 593 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 583 of this title as this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 577 of this title; title 29 section 173.

§ 574. Confidentiality

(a) Except as provided in subsections (d) and (e), a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication or any communication provided in confidence to the neutral, unless—

(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

(2) the dispute resolution communication has already been made public;

(3) the dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

(4) a court determines that such testimony or disclosure is necessary to—

(A) prevent a manifest injustice;

(B) help establish a violation of law; or

(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication, unless—

(1) the communication was prepared by the party seeking disclosure;

(2) all parties to the dispute resolution proceeding consent in writing;

(3) the dispute resolution communication has already been made public;

(4) the dispute resolution communication is required by statute to be made public;

(5) a court determines that such testimony or disclosure is necessary to—

(A) prevent a manifest injustice;

(B) help establish a violation of law; or

(C) prevent harm to the public health and safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

(6) the dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

(7) the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b), shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

(d) The parties may agree to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

(g) Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

(h) Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

(i) Subsections (a) and (b) shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

(j) This section shall not be considered a statute specifically exempting disclosure under section 552(b)(3) of this title.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2740, § 584; renumbered § 574, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings

Provision note set out under section 571 of this title.

CODIFICATION

Section 574 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2255 of Title 7, Agriculture.

Section 574a of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2226 of Title 7.

PRIOR PROVISIONS

A prior section 574 was renumbered section 594 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 584 of this title as this section.

§ 575. Authorization of arbitration

(a)(1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

(A) submit only certain issues in controversy to arbitration; or

(B) arbitration on the condition that the award must be within a range of possible outcomes.

(2) Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

(3) An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaining a benefit.

(b) An officer or employee of an agency may offer to use arbitration for the resolution of issues in controversy, if such officer or employee—

(1) has authority to enter into a settlement concerning the matter; or

(2) is otherwise specifically authorized by the agency to consent to the use of arbitration.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2742, § 585; renumbered § 575, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

CODIFICATION

Section 575 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2259 of Title 7, Agriculture.

PRIOR PROVISIONS

A prior section 575 was renumbered section 595 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 585 of this title as this section.

§ 576. Enforcement of arbitration agreements

An agreement to arbitrate a matter to which this subchapter applies is enforceable pursuant to section 4 of title 9, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2742, § 586; renumbered § 576, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

CODIFICATION

Section 576 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2260 of Title 7, Agriculture.

PRIOR PROVISIONS

A prior section 576 was renumbered section 596 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 586 of this title as this section.

§ 577. Arbitrators

(a) The parties to an arbitration proceeding shall be entitled to participate in the selection of the arbitrator.

(b) The arbitrator shall be a neutral who meets the criteria of section 573 of this title.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2742, § 587; renumbered § 577 and amended Pub. L. 102–354, § 3(b)(2), (3), Aug. 26, 1992, 102 Stat. 944, 945.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

AMENDMENTS

1992—Pub. L. 102–354, § 3(b)(2), renumbered section 587 of this title as this section.

Subsec. (b). Pub. L. 102–354, § 3(b)(3), substituted ''section 573'' for ''section 583''.

§ 578. Authority of the arbitrator

An arbitrator to whom a dispute is referred under this subchapter may—

(1) regulate the course of and conduct arbitral hearings;

(2) administer oaths and affirmations;

(3) compel the attendance of witnesses and production of evidence at the hearing under the provisions of section 7 of title 9 only to the extent the agency involved is otherwise authorized by law to do so; and

(4) make awards.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2742, § 588; renumbered § 578, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 588 of this title as this section.

§ 579. Arbitration proceedings

(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

(b) Any party wishing a record of the hearing shall—

(1) be responsible for the preparation of such record;

(2) notify the other parties and the arbitrator of the preparation of such record;

(3) furnish copies to all identified parties and the arbitrator; and

(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

(3) The hearing shall be conducted expeditiously and in an informal manner.

(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

(d) No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

(e) The arbitrator shall make the award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless—

(1) the parties agree to some other time limit; or

(2) the agency provides by rule for some other time limit.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2742, § 589; renumbered § 579, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 589 of this title as this section.

§ 580. Arbitration awards

(a)(1) Unless the agency provides otherwise by rule, the award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

(2) The prevailing parties shall file the award with all relevant agencies, along with proof of service on all parties.

(b) The award in an arbitration proceeding shall become final 30 days after it is served on all parties. Any agency that is a party to the proceeding may extend this 30-day period for an additional 30-day period by serving a notice of such extension on all other parties before the end of the first 30-day period.

(c) The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all other parties a written notice to that effect, in which case the award shall be null and void. Notice shall be provided to all parties to the arbitration proceeding of any request by a party, nonparty participant or other person that the agency head terminate the arbitration proceeding or vacate the award. An employee or agent engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.

(d) A final award is binding on the parties to the arbitration proceeding, and may be enforced pursuant to sections 9 through 13 of title 9. No action brought to enforce such an award shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

(e) An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

(f) An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

(g) If an agency head vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of fees and other expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The

agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his or her designee finds that special circumstances make such an award unjust. The procedures for reviewing applications for awards shall, where appropriate, be consistent with those set forth in subsection (a)(2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2743, § 590; renumbered § 580 and amended Pub. L. 102–354, §§ 3(b)(2), 5(b)(3), Aug. 26, 1992, 106 Stat. 944, 946.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

AMENDMENTS

1992—Pub. L. 102–354, § 3(b)(2), renumbered section 590 of this title as this section.

Subsec. (g). Pub. L. 102–354, § 5(b)(3), substituted ''fees and other expenses'' for ''attorney fees and expenses''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 581 of this title; title 9 section 10.

§ 581. Judicial Review [1]

(a) Notwithstanding any other provision of law, any person adversely affected or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

(b)(1) A decision by an agency to use or not to use a dispute resolution proceeding under this subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b) of title 9.

(2) A decision by the head of an agency under section 580 to terminate an arbitration proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2744, § 591; renumbered § 581 and amended Pub. L. 102–354, § 3(b)(2), (4), Aug. 26, 1992, 106 Stat. 944, 945.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

PRIOR PROVISIONS

A prior section 581 was renumbered section 571 of this title.

Another prior section 581 was renumbered section 561 of this title.

AMENDMENTS

1992—Pub. L. 102–354, § 3(b)(2), renumbered section 591 of this title as this section.

Subsec. (b)(2). Pub. L. 102–354, § 3(b)(4), substituted ''section 580'' for ''section 590''.

§ 582. Compilation of information

The Chairman of the Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall, upon the request of the Chairman of the Administrative Conference of the United States, supply such information as is required to enable the Chairman to comply with this section.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2744, § 592; renumbered § 582, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

PRIOR PROVISIONS

A prior section 582 was renumbered section 572 of this title.

Another prior section 582 was renumbered section 562 of this title.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 592 of this title as this section.

§ 583. Support services

For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.

(Added Pub. L. 101–552, § 4(b), Nov. 15, 1990, 104 Stat. 2745, § 593; renumbered § 583, Pub. L. 102–354, § 3(b)(2), Aug. 26, 1992, 106 Stat. 944.)

TERMINATION OF SECTION

For termination of section by section 11 of Pub. L. 101–552, see Termination Date; Savings Provision note set out under section 571 of this title.

PRIOR PROVISIONS

Prior sections 583 to 590 were renumbered sections 573 to 580 of this title, respectively.

Other prior sections 583 to 590 were renumbered sections 563 to 570 of this title, respectively.

AMENDMENTS

1992—Pub. L. 102–354 renumbered section 593 of this title as this section.

SUBCHAPTER V—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

AMENDMENTS

1992—Pub. L. 102–354, § 2(1), Aug. 26, 1992, 106 Stat. 944, redesignated subchapter III of this chapter as this subchapter.

§ 591. Purpose

It is the purpose of this subchapter to provide suitable arrangements through which Federal

[1] So in original. Probably should not be capitalized.