1505. Inserted "Tennessee Valley Authority, or to amend of any action against, or founded on conduct of, the Tennessee Valley Authority, or to amend or modify the provisions of the Tennessee Valley Authority Act of 1933 with respect to actions by or against the Authority.

The exception in section 250(1) of title 28, U.S.C., 1940 ed., relating to claims growing out of the Civil War, commonly known as "war claims," and other claims which had been reported adversely before March 3, 1887 by any court, department, or commission authorized to determine them, were omitted as obsolete.

The exception in section 250(1) of title 28, U.S.C., 1940 ed., as to pension claims appears in section 1501 of this title.

See References in Text note below.

1 See References in Text note below.

2 So in original. Probably should be "United".

§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority

(a)(1) The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

(b) To provide an entire remedy and to complete the relief afforded by the judgment, the court may, as an incident of and collateral to any such judgment, issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records, and such orders may be issued to any appropriate official of the United States. In any case within its jurisdiction, the court shall have the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just. The Court of Federal Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under section 7014(b)(1) of title 41, including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 61 of that Act.

(b)(1) Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5.

(5) If an interested party who is a member of the private sector commences an action described in paragraph (1) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding the performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, then an interested party described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.

(6) Jurisdiction over any action described in paragraph (1) arising out of a maritime contract, or a solicitation for a proposed maritime contract, shall be governed by this section and shall not be subject to the jurisdiction of the district courts of the United States under the Suits in Admiralty Act (chapter 309 of title 46) or the Public Vessels Act (chapter 311 of title 46).

(c) Nothing herein shall be construed to give the United States Court of Federal Claims jurisdiction of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action against, or founded on conduct of, the Tennessee Valley Authority, or to amend or modify the provisions of the Tennessee Valley Authority Act of 1933 with respect to actions by or against the Authority.
Words “in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty, if the United States were suable” were omitted as unnecessary since the Court of Claims manifests, under this section will determine whether a petition against the United States states a cause of action. In any event, the Court of Claims has no admiralty jurisdiction, for the Supreme Court in Admiralty Act, sections 741-752 of title 46, U.S.C., 1940 ed., Shipping, vests exclusive jurisdiction over suits in admiralty against the United States in the district courts. See 28 U.S.C. 2291. For additional provisions respecting jurisdiction of the court of claims in contract settlement cases see section 119b of title 41, U.S.C., 1940 ed., Public Contracts.

Changes were made in phraseology.

Editorial Notes

REFERENCES IN TEXT

Section 6 of the Contract Disputes Act of 1978, referred to in subsec. (a)(2), was classified to section 605 of former title 41, Public Contracts, and was repealed and restated as subsections (a) to (c)(1) and (d) to (h) of section 7103 of title 41, Public Contracts, by Pub. L. 111–350, §§ 81, 7(b), Jan. 4, 2010, 124 Stat. 3677, 365.

The Tennessee Valley Authority Act of 1933, referred to in subsec. (c), is act May 18, 1933, ch. 32, 48 Stat. 58, which was classified generally to chapter 12A (§ 831 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 831 of Title 16 and Tables.

AMENDMENTS


1996—Subsec. (a)(3). Pub. L. 104–320, 122 Stat. 3566, added par. (5), as amended by Pub. L. 110–161, which read as follows: “If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.’’


1996—Subsec. (a)(3). Pub. L. 104–320, § 122(a)(2), struck out par. (b) which read as follows: “To afford complete relief on any claim contract brought before the contract is awarded, the court shall have exclusive jurisdiction to grant declaratory judgments and such equitable and extraordinary relief as it deems proper, including but not limited to injunctive relief. In exercising this jurisdiction, the court shall give due regard to the interests of national defense and national security.”

Subsecs. (b), (c). Pub. L. 104–320, § 122(a)(1), (3), added subsec. (b) and redesignated former subsec. (b) as (c).


Subsec. (a)(2). Pub. L. 102–572, § 907(b)(1), inserted before “(a)” inserting “section 3551(2)(B) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (c)), shall apply to—”:

“(1) a protest or civil action that challenges final selection of the source of performance of an activity or function of a Federal agency that is made pursuant to a study initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004, and

“(2) any other protest or civil action that relates to a public-private competition initiated under Office of Management and Budget Circular A–76, or to a decision to convert a function performed by Federal employees to private sector performance without a com-

2011—Subsec. (a)(1). Pub. L. 97–164 designated first two sentences of existing first undesignated paragraph as subsec. (a)(1) and substituted “United States Claims Court” for “Court of Claims”.


Subsec. (b). Pub. L. 97–164 designated existing second undesignated paragraph as subsec. (b) and substituted “United States Claims Court” for “Court of Claims”, “conduct of the Tennessee Valley Authority, or” for “actions of the, Tennessee Valley Authority, or”, “Tennessee Valley Authority Act of 1933,” and “actions by or against the Authority” for “suites by or against the Authority”.

1980—Pub. L. 96–417 substituted “Court of Claims of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action” for “in suits” in second par.

1978—Pub. L. 95–563 provided that the Court of Claims would have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under the Contract Disputes Act of 1978.

1972—Pub. L. 92–415 inserted provisions authorizing the court to issue orders directing restoration to office or position, placement in appropriate duty or retirement status and correction of applicable records, or issue such orders to any United States official and to remand appropriate matters to administrative and executive bodies with proper direction.

1970—Pub. L. 91–350 specified that the term “express or implied contracts with the United States” includes express or implied contracts with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration.

1954—Act Sept. 3, 1954, inserted “actions involving Tennessee Valley Authority” in section catchline and altered the form of first par. to spell out the general jurisdiction of the Court in paragraph form rather than as clauses of the par.

1953—Act July 28, 1953, substituted “United States Court of Claims” for “Court of Claims near beginning of section, and inserted last par.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–181, div. A, title VIII, § 861(b), Dec. 31, 2011, 125 Stat. 122, provided that: “The amendment made by subsection (a) (amending this section) shall apply to any cause of action filed on or after the first day of the first month beginning more than 30 days after the date of the enactment of this Act [Dec. 31, 2011].”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title III, § 326(d), Jan. 28, 2008, 122 Stat. 63, provided that: “Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (c)), shall apply to—”:

“(1) a protest or civil action that challenges final selection of the source of performance of an activity or function of a Federal agency that is made pursuant to a study initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004, and

“(2) any other protest or civil action that relates to a public-private competition initiated under Office of Management and Budget Circular A–76, or to a decision to convert a function performed by Federal employees to private sector performance without a com-
petition under Office of Management and Budget Circular A-76, on or after the date of the enactment of this Act [Jan. 28, 2008]."

**Effective Date of 2007 Amendment**

Amendment by Pub. L. 91–350 applicable to claims and civil actions dismissed before or pending on July 23, 1970, if the claim or civil action was based upon a transaction, omission, or breach that occurred not more than six years prior to July 23, 1970, notwithstanding a determination or judgment made prior to July 23, 1970, that the United States district courts or the United States Court of Claims did not have jurisdiction to entertain a suit on an express or implied contract with a nonappropriated fund instrumentality of the United States, see section 2 of Pub. L. 91–350, set out as a note under section 1566 of this title.

**Savings Provision**

Pub. L. 104–320, §12(e), Oct. 19, 1996, 110 Stat. 3875, provided that:

"(1) ORDERS.—A termination under subsection (d) [set out below] shall not terminate the effectiveness of orders that have been issued by a court in connection with an action within the jurisdiction of that court on or before December 31, 2000. Such orders shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

"(2) PROCEDINGS AND APPLICATIONS.—(A) A termination under subsection (d) shall not affect the jurisdiction of a court of the United States to continue with any proceeding that is pending before the court on December 31, 2000.

"(B) Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if such termination had not occurred. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, set aside, or revoked by a court of competent jurisdiction or by operation of law.

"(C) Nothing in this paragraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that proceeding could have been discontinued or modified absent such termination."

**Sunset Provision**

Pub. L. 104–320, §12(d), Oct. 19, 1996, 110 Stat. 3875, provided that: "The jurisdiction of the district courts of the United States over the actions described in section 1097(b)(1) of title 28, United States Code (as amended by subsection (a) of this section) shall terminate on January 1, 2001 unless extended by Congress. The savings provisions in subsection (e) [set out above] shall apply if the bid protest jurisdiction of the district courts of the United States terminates under this subsection."

**Transfer of Functions**

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 469(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, set out as a note under section 542 of Title 6.
§ 1492. Congressional reference cases

Any bill, except a bill for a pension, may be referred by either House of Congress to the chief judge of the United States Court of Federal Claims for a report in conformity with section 2509 of this title.


HISTORICAL AND REVISION NOTES


This section contains only the jurisdictional provision of section 257 of title 28, U.S.C. 1940 ed. The procedural provisions are incorporated in section 2509 of this title.

Changes were made in phraseology.

Editorial Notes

AMENDMENTS


1982—Pub. L. 97–164 substituted “chief judge of the United States Claims Court” for “chief commissioner of the Court of Claims”.

1966—Pub. L. 89–681 substituted provisions allowing any bill, except a bill for a pension, to be referred by either House of Congress to the chief commissioner of the Court of Claims for a report in conformity with section 2509 of this title for provisions giving the Court of Claims jurisdiction to report to either House of Congress on any bill referred by such House, except a bill for a pension, and to render judgment if the claim against the United States represented by the referred bill was one over which the court had jurisdiction under other Acts of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT


EFFECTIVE DATE OF 1982 AMENDMENT


Section, act June 25, 1948, ch. 646, 62 Stat. 941, authorized Court of Claims to give legal advice to heads of executive departments in matters referred to it by the heads, if Court had jurisdiction over the matters.

§ 1494. Accounts of officers, agents or contractors

The United States Court of Federal Claims shall have jurisdiction to determine the amount, if any, due to or from the United States by reason of any unsettled account of any officer or agent of, or contractor with, the United States, or a guarantor, surety or personal representative of any such officer, agent or contractor, and to render judgment thereof, where—

(1) claimant or the person he represents has applied to the proper department of the Government for settlement of the account; and

(2) three years have elapsed from the date of such application without settlement; and

(3) no suit upon the same has been brought by the United States.


HISTORICAL AND REVISION NOTES


Only the jurisdictional provisions of section 287 of title 28, U.S.C. 1940 ed., are contained in this section. The procedural provisions are incorporated in section 2511 of this title.

Changes were made in phraseology.

Editorial Notes

AMENDMENTS


1982—Pub. L. 97–164 substituted “United States Claims Court” for “Court of Claims”.


1953—Act July 28, 1953, substituted “United States Court of Claims” for “Court of Claims”, inserted “to or from” after “due”, and inserted “and to render judgment thereon.”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT


EFFECTIVE DATE OF 1982 AMENDMENT


§ 1495. Damages for unjust conviction and imprisonment; claim against United States

The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim for damages by any person unjustly convicted of an offense against the United States and imprisoned.


HISTORICAL AND REVISION NOTES


Only the jurisdictional provision of section 729 of title 18, U.S.C., 1940 ed., appears in this section. The remainder is incorporated in section 2513 of this title.

Changes were made in phraseology.

Editorial Notes

AMENDMENTS


1982—Pub. L. 97–164 substituted “United States Claims Court” for “Court of Claims”.


1953—Act July 28, 1953, substituted “United States Court of Claims” for “Court of Claims”, inserted “to or from” after “due”, and inserted “and to render judgment thereon.”.

1948—Act June 25, 1948, ch. 646, 62 Stat. 941, authorized Court of Claims to give legal advice to heads of executive departments in matters referred to it by the heads, if Court had jurisdiction over the matters.