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Editorial Notes

AMENDMENTS

2018—Pub. L. 115-158, §2(b), Mar. 27, 2018, 132 Stat. 1242, added item 1355. Item was added to the analysis for this chapter to reflect the probable intent of Congress, notwithstanding directory language amending the analysis for subchapter III of this chapter.

1998—Pub. L. 105-339, §7(b)(2), Oct. 31, 1998, 112 Stat. 3189, added item 1354.

1990—Pub. L. 101-280, §4(b)(2), May 4, 1990, 104 Stat. 157, redesignated item 1352 "Acceptance of travel and related expenses from non-Federal sources" as 1353.

1989—Pub. L. 101-194, title III, §302(b), Nov. 30, 1989, 103 Stat. 1746, added item 1352 "Acceptance of travel and related expenses from non-Federal sources".

Pub. L. 101-121, title III, §319(a)(2), Oct. 23, 1989, 103 Stat. 756, added item 1352 "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions".

1986—Pub. L. 99-550, §1(b), Oct. 27, 1986, 100 Stat. 3070, substituted "Passenger carrier use" for "Passenger motor vehicle and aircraft use" in item 1344.

SUBCHAPTER I—GENERAL

§ 1301. Application

(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

(b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(c) An appropriation in a regular, annual appropriation law may be construed to be perma-

nent or available continuously only if the appropriation—

(1) is for rivers and harbors, lighthouses, public buildings, or the pay of the Navy and Marine Corps; or

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

(d) A law may be construed to make an appropriation out of the Treasury or to authorize making a contract for the payment of money in excess of an appropriation only if the law specifically states that an appropriation is made or that such a contract may be made.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 917.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1301(a)	31:628.	R.S. §3678.
1301(b)	31:717.	Mar. 4, 1915, ch. 147, §4, 38 Stat. 1161.
1301(c)	31:718.	Aug. 24, 1912, ch. 355, §7, 37 Stat. 487; Mar. 3, 1919, ch. 99, §6(last sentence), 40 Stat. 1309.
1301(d)	31:627.	June 30, 1906, ch. 3914, §9, 34 Stat. 764.

In subsection (a), the word "Appropriations" is substituted for "sums appropriated for the various branches of expenditure in the public service" to eliminate unnecessary words. The words "they are respectively" and "and for no others" are omitted as surplus. The words "except as otherwise provided by law" are substituted for "All" in section 3678 of the Revised Statutes to inform the reader that there are exceptions to the source provisions restated in the subsection.

In subsection (c), before clause (1), the words "specific or indefinite" are omitted as surplus. The words "made subsequent to August 24, 1912" are omitted as executed. The words "without reference to a fiscal year" are omitted as surplus. In clause (1), the words "is for" are substituted for "belongs to one of the following four classes" to eliminate unnecessary words. The words "last specifically named in and excepted from the operation of the provisions of section 713 of this title" and the words related to section 5 of the Act of June 20, 1874 (31:713), in section 6(last sentence) of the Act of March 3, 1919 (ch. 99, 40 Stat. 1309), are omitted because section 5 was repealed by section 3 of the Act of July 6, 1949 (ch. 299, 63 Stat. 407).

In subsection (d), the words "passed after June 30, 1906" are omitted as executed.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116-1, §1, Jan. 16, 2019, 133 Stat. 3, provided that: "This Act [amending section 1341 of this title] may be cited as the 'Government Employee Fair Treatment Act of 2019'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-158, §1, Mar. 27, 2018, 132 Stat. 1242, provided that: "This Act [enacting section 1355 of this title] may be cited as the 'Eliminating Government-funded Oil-painting Act' or the 'EGO Act'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-359, §1, July 13, 1984, 98 Stat. 402, provided: "That this Act [amending section 1322 of this title] may be cited as the 'Postal Savings System Statute of Limitations Act'."

TRANSFERS FROM APPROPRIATION ACCOUNTS; SALARIES OF TEMPORARILY REASSIGNED EMPLOYEES

Pub. L. 105-277, div. A, §101(f) [title V, §510], Oct. 21, 1998, 112 Stat. 2681-337, 2681-385, as amended by Pub. L.

106-31, title V, §5005(l), May 21, 1999, 113 Stat. 111, provided that: “Notwithstanding any other provision of law, hereafter—

“(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation Act, or in the Act establishing the program or activity for which funds are contained in this Act [see Tables for classification];

“(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purpose for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

“(3) no funds provided under this Act or subsequent Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Acts shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-78, title V, §511, Nov. 13, 1997, 111 Stat. 1516.

Pub. L. 104-208, div. A, title I, §101(e) [title V, §509], Sept. 30, 1996, 110 Stat. 3009-233, 3009-269.

Pub. L. 104-134, title I, §101(d) [title V, §509], Apr. 26, 1996, 110 Stat. 1321-211, 1321-244; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103-333, title V, §515, Sept. 30, 1994, 108 Stat. 2574.

Executive Documents

EX. ORD. NO. 13457. PROTECTING AMERICAN TAXPAYERS FROM GOVERNMENT SPENDING ON WASTEFUL EARMARKS

Ex. Ord. No. 13457, Jan. 29, 2008, 73 F.R. 6417, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. It is the policy of the Federal Government to be judicious in the expenditure of taxpayer dollars. To ensure the proper use of taxpayer funds that are appropriated for Government programs and purposes, it is necessary that the number and cost of earmarks be reduced, that their origin and purposes be transparent, and that they be included in the text of the bills voted upon by the Congress and presented to the President. For appropriations laws and other legislation enacted after the date of this order, executive agencies should not commit, obligate, or expend funds on the basis of earmarks included in any non-statutory source, including requests in reports of committees of the Congress or other congressional documents, or communications from or on behalf of Members of Congress, or any other non-statutory source, except when required by law or when an agency has itself determined a project, program, activity, grant, or other transaction to have merit under statutory criteria or other merit-based decisionmaking.

SEC. 2. Duties of Agency Heads. (a) With respect to all appropriations laws and other legislation enacted after the date of this order, the head of each agency shall take all necessary steps to ensure that:

(i) agency decisions to commit, obligate, or expend funds for any earmark are based on the text of laws, and in particular, are not based on language in any report of a committee of Congress, joint explanatory statement of a committee of conference of the Congress, statement of managers concerning a bill in the Congress, or any other non-statutory statement or in-

dications of views of the Congress, or a House, committee, Member, officer, or staff thereof;

(ii) agency decisions to commit, obligate, or expend funds for any earmark are based on authorized, transparent, statutory criteria and merit-based decision making, in the manner set forth in section II of OMB Memorandum M-07-10, dated February 15, 2007, to the extent consistent with applicable law; and

(iii) no oral or written communications concerning earmarks shall supersede statutory criteria, competitive awards, or merit-based decisionmaking.

(b) An agency shall not consider the views of a House, committee, Member, officer, or staff of the Congress with respect to commitments, obligations, or expenditures to carry out any earmark unless such views are in writing, to facilitate consideration in accordance with section 2(a)(ii) above. All written communications from the Congress, or a House, committee, Member, officer, or staff thereof, recommending that funds be committed, obligated, or expended on any earmark shall be made publicly available on the Internet by the receiving agency, not later than 30 days after receipt of such communication, unless otherwise specifically directed by the head of the agency, without delegation, after consultation with the Director of the Office of Management and Budget, to preserve appropriate confidentiality between the executive and legislative branches.

(c) Heads of agencies shall otherwise implement within their respective agencies the policy set forth in section 1 of this order, consistent with such instructions as the Director of the Office of Management and Budget may prescribe.

(d) The head of each agency shall upon request provide to the Director of the Office of Management and Budget information about earmarks and compliance with this order.

SEC. 3. Definitions. For purposes of this order:

(a) The term “agency” means an executive agency as defined in section 105 of title 5, United States Code, and the United States Postal Service and the Postal Regulatory Commission, but shall exclude the Government Accountability Office; and

(b) the term “earmark” means funds provided by the Congress for projects, programs, or grants where the purported congressional direction (whether in statutory text, report language, or other communication) circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the executive branch to manage its statutory and constitutional responsibilities pertaining to the funds allocation process.

SEC. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§ 1302. Determining amounts appropriated

Except as specifically provided by law, the total amount appropriated in an appropriation law is determined by adding up the specific amounts or rates appropriated in each paragraph of the law.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 917.)