

(e) Appropriate Federal banking agency exception

For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgement, order, or settlement.

(Pub. L. 101-647, title XXV, §2580, Nov. 29, 1990, 104 Stat. 4901.)

Editorial Notes

REFERENCES IN TEXT

Section 3509A of title 18, referred to in subsec. (d), probably is a reference to former section 3059A of title 18, which was repealed by Pub. L. 107-273, div. A, title III, §301(c)(2), Nov. 2, 2002, 116 Stat. 1781.

§ 4226. Rights of declarants; notifications; Government accountability**(a) In general**

A person who has filed a declaration that meets the requirements of sections 4221 through 4224 of this title shall have the rights stated in this section.

(b) Notice of decision not to pursue

If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) Judgment, order, or settlement

(1) When the United States obtains a final judgment, order, or settlement transferring to the United States title to an asset or assets identified in a valid declaration filed under section 4221¹ of this title, the Attorney General shall notify the declarant in writing of the entry of the judgment, order, or settlement.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 4225(c) of this title upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) Notice of pendency of investigation or proceeding

(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 4224 of this title within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) Confidentiality of notices

All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 4223 of this title.

(Pub. L. 101-647, title XXV, §2581, Nov. 29, 1990, 104 Stat. 4902.)

Editorial Notes

REFERENCES IN TEXT

Section 4221 of this title, referred to in subsec. (c)(1), was in the original "section 831", and was translated as reading "section 2576", meaning section 2576 of Pub. L. 101-647, as the probable intent of Congress, because Pub. L. 101-647 does not contain a section 831.

§ 4227. Unreviewed declarations; petition to pursue action as private contractor**(a) Notification**

(1) If, pursuant to section 4226(d)(1)(B) of this title, the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to subchapter III to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 4226(d)(1)(B) of this title, and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) Contents of response

In response to a notification under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to subchapter III; or

(2) proceed with an action.

(c) Grant of contract

If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with subchapter III.

(Pub. L. 101-647, title XXV, §2582, Nov. 29, 1990, 104 Stat. 4903.)

§ 4228. Nonreviewability of action by Attorney General

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this subchapter, except for failure to provide notification under section 4226 of this title.

(Pub. L. 101-647, title XXV, §2583, Nov. 29, 1990, 104 Stat. 4903.)

¹ See References in Text note below.

§ 4229. Protection for declarants

A declarant under this subchapter shall enjoy the protections of section 3059A(e)¹ of title 18.

(Pub. L. 101-647, title XXV, §2584, Nov. 29, 1990, 104 Stat. 4903.)

Editorial Notes

REFERENCES IN TEXT

Section 3059A(e) of title 18, referred to in text, was repealed by Pub. L. 107-273, div. A, title III, §301(c)(2), Nov. 2, 2002, 116 Stat. 1781.

§ 4230. Promulgation of regulations

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this subchapter.

(Pub. L. 101-647, title XXV, §2585, Nov. 29, 1990, 104 Stat. 4903.)

SUBCHAPTER III—USE OF PRIVATE LEGAL RESOURCES

§ 4241. Authority to enter into contracts for private counsel**(a) In general**

The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 4201 of this title or section 4225 of this title.

(b) Terms and conditions

Each contract under subsection (a) shall include the provisions described in section 4244 of this title and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States.

(c) Limitation of fee

The amount of the contingency fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the contingency fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

(d) Contingent fees

Notwithstanding section 3302(b) of title 31, a contract under this section shall provide that a fee that the United States pays private counsel for services is payable from the amount recovered and shall be based on a percentage of the civil penalties or assets recovered.

(Pub. L. 101-647, title XXV, §2588, Nov. 29, 1990, 104 Stat. 4905.)

§ 4242. Contract decisions nonreviewable

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the

Attorney General's decision to refuse to enter into a contract for legal services referred to in section 4241 of this title.

(Pub. L. 101-647, title XXV, §2589, Nov. 29, 1990, 104 Stat. 4905.)

§ 4243. Representation

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, private counsel retained under section 4241 of this title may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 4244 of this title.

(Pub. L. 101-647, title XXV, §2590, Nov. 29, 1990, 104 Stat. 4906.)

§ 4244. Contract provisions

A contract made with a private counsel under section 4241 of this title shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating to matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

(Pub. L. 101-647, title XXV, §2591, Nov. 29, 1990, 104 Stat. 4906.)

§ 4245. Counterclaims

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 4241 of this title may not be asserted unless the counterclaim has been served directly on the Attorney General and the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

(Pub. L. 101-647, title XXV, §2592, Nov. 29, 1990, 104 Stat. 4906.)

§ 4246. Awards of costs and fees to prevailing plaintiff

When the United States, through private counsel retained under this subchapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees and other expenses of litigation as part of the costs.

(Pub. L. 101-647, title XXV, §2593, Nov. 29, 1990, 104 Stat. 4906.)

§ 4247. Promulgation of regulations

The Attorney General may promulgate any rules, regulations, or guidelines that, in the At-

¹ See References in Text note below.