

**§ 7364. General powers**

(a) IN GENERAL.—(1) A corporation established under this subchapter may, solely to carry out the purposes of this subchapter—

(A) accept, administer, retain, and spend funds derived from gifts, contributions, grants, fees, reimbursements, and bequests from individuals and public and private entities;

(B) enter into contracts and agreements with individuals and public and private entities;

(C) subject to paragraph (2), set fees for education and training facilitated under section 7362 of this title, and receive, retain, administer, and spend funds in furtherance of such education and training;

(D) reimburse amounts to the applicable appropriation account of the Department for the Office of General Counsel for any expenses of that Office in providing legal services attributable to research and education agreements under this subchapter; and

(E) employ such employees as the corporation considers necessary for such purposes and fix the compensation of such employees.

(2) Fees charged pursuant to paragraph (1)(C) for education and training described in that paragraph to individuals who are officers or employees of the Department may not be paid for by any funds appropriated to the Department.

(3) Amounts reimbursed to the Office of General Counsel under paragraph (1)(D) shall be available for use by the Office of the General Counsel only for staff and training, and related travel, for the provision of legal services described in that paragraph and shall remain available for such use without fiscal year limitation.

(b) TRANSFER AND ADMINISTRATION OF FUNDS.—(1) Except as provided in paragraph (2), any funds received by the Secretary for the conduct of research or education at a Department medical center or centers, other than funds appropriated to the Department, may be transferred to and administered by a corporation established under this subchapter for such purposes. Any amounts so transferred after September 30, 2016, shall be available without regard to fiscal year limitations, notwithstanding section 1535(d) of title 31.

(2) A Department medical center may reimburse the corporation for all or a portion of the pay, benefits, or both of an employee of the corporation who is assigned to the Department medical center if the assignment is carried out pursuant to subchapter VI of chapter 33 of title 5.

(3) A Department medical center may retain and use funds provided to it by a corporation established under this subchapter. Such funds shall be credited to the applicable appropriation account of the Department and shall be available, without fiscal year limitation, for the purposes of that account.

(c) RESEARCH PROJECTS.—Except for reasonable and usual preliminary costs for project planning before its approval, a corporation established under this subchapter may not spend funds for a research project unless the project is

approved in accordance with procedures prescribed by the Under Secretary for Health for research carried out with Department funds. Such procedures shall include a scientific review process.

(d) EDUCATION ACTIVITIES.—Except for reasonable and usual preliminary costs for activity planning before its approval, a corporation established under this subchapter may not spend funds for an education activity unless the activity is approved in accordance with procedures prescribed by the Under Secretary for Health.

(e) POLICIES AND PROCEDURES.—The Under Secretary for Health may prescribe policies and procedures to guide the spending of funds by corporations established under this subchapter that are consistent with the purpose of such corporations as flexible funding mechanisms and with Federal and State laws and regulations, and executive orders, circulars, and directives that apply generally to the receipt and expenditure of funds by nonprofit organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(Added Pub. L. 100-322, title II, §204(a), May 20, 1988, 102 Stat. 511, §4164; renumbered §7364 and amended Pub. L. 102-40, title IV, §§401(a)(4)(B), 403(a)(2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106-117, title II, §204(d), Nov. 30, 1999, 113 Stat. 1562; Pub. L. 111-163, title VIII, §804(a), May 5, 2010, 124 Stat. 1177; Pub. L. 116-315, title VII, §7006, Jan. 5, 2021, 134 Stat. 5059.)

**Editorial Notes**

## REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (e), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

## AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116-315 inserted “Any amounts so transferred after September 30, 2016, shall be available without regard to fiscal year limitations, notwithstanding section 1535(d) of title 31.” at end.

2010—Pub. L. 111-163 amended section generally. Prior to amendment, section related to the general powers of a corporation established under this subchapter.

1999—Subsec. (c). Pub. L. 106-117 added subsec. (c).

1992—Subsec. (b). Pub. L. 102-405 substituted “Under Secretary for Health” for “Chief Medical Director”.

1991—Pub. L. 102-40, §401(a)(4)(B), renumbered section 4164 of this title as this section.

Subsec. (b). Pub. L. 102-40, §403(a)(2), substituted “Department” for “Veterans’ Administration”.

**[§ 7364A. Renumbered § 7365]****§ 7365. Coverage of employees under certain Federal tort claims laws**

(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the Government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

- (1) Section 1346(b) of title 28.
- (2) Chapter 171 of title 28.
- (3) Section 7316 of this title.

(b) An employee described in this subsection is an employee who—

- (1) has an appointment with the Department, whether with or without compensation;
- (2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health for research or education and training; and
- (3) performs such duties under the supervision of Department personnel.

(Added Pub. L. 108-170, title IV, §402(a)(1), Dec. 6, 2003, 117 Stat. 2061, §7364A; renumbered §7365, Pub. L. 102-40, title IV, §401(a)(4)(B), May 7, 1991, 105 Stat. 221, which required any corporation established under this subchapter to be subject to applicable State law, was repealed by Pub. L. 111-163, title VIII, §801(b)(2), May 5, 2010, 124 Stat. 1179.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 7365, added Pub. L. 100-322, title II, §204(a), May 20, 1988, 102 Stat. 511, §4165; renumbered §7365, Pub. L. 102-40, title IV, §401(a)(4)(B), May 7, 1991, 105 Stat. 221, which required any corporation established under this subchapter to be subject to applicable State law, was repealed by Pub. L. 111-163, title VIII, §801(b)(2), May 5, 2010, 124 Stat. 1176.

##### AMENDMENTS

2010—Pub. L. 111-163 renumbered section 7364A of this title as this section.

#### § 7366. Accountability and oversight

(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Secretary.

(B) For the purposes of sections 404(a)(1) and 406(a)(1) of title 5, the programs and operations of such a corporation shall be considered to be programs and operations of the Department with respect to which the Inspector General of the Department has responsibilities under chapter 4 of title 5.

(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

(b)(1) Each corporation shall submit to the Secretary each year a report providing a detailed statement of the operations, activities, and accomplishments of the corporation during that year.

(2)(A) A corporation with revenues in excess of \$500,000 for any year shall obtain an audit of the corporation for that year.

(B) A corporation with annual revenues between \$100,000 and \$500,000 shall obtain an audit of the corporation at least once every three years.

(C) Any audit under this paragraph shall be performed by an independent auditor.

(3) The corporation shall include in each report to the Secretary under paragraph (1) the following:

(A) The most recent audit of the corporation under paragraph (2).

(B) The most recent Internal Revenue Service Form 990 "Return of Organization Exempt from Income Tax" or equivalent and the applicable schedules under such form.

(c) Each director, officer, and employee of a corporation established under this subchapter shall be subject to a conflict of interest policy adopted by that corporation.

(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the corporations established under this subchapter. The report shall set forth the following information:

(1) The location of each corporation.

(2) The amount received by each corporation during the previous year, including—

(A) the total amount received;

(B) the amount received from governmental entities for research and the amount received from governmental entities for education;

(C) the amount received from all other sources for research and the amount received from all other sources for education; and

(D) if an amount received from a source referred to in subparagraph (C) exceeded \$25,000, information that identifies the source.

(3) The amount expended by each corporation during the year, including—

(A) the amount expended for salary for research staff, the amount expended for salary for education staff, and the amount expended for salary for support staff;

(B) the amount expended for direct support of research and the amount expended for direct support of education; and

(C) if the amount expended with respect to any payee exceeded \$50,000, information that identifies the payee.

(4) The amount expended by each corporation during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.

(Added Pub. L. 100-322, title II, §204(a), May 20, 1988, 102 Stat. 511, §4166; renumbered §7366 and amended Pub. L. 102-40, title IV, §§401(a)(4)(B), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 104-262, title III, §343(c)-(e), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106-117, title II, §204(e), Nov. 30, 1999, 113 Stat. 1563; Pub. L. 107-103, title V, §509(f), Dec. 27, 2001, 115 Stat. 997; Pub. L. 108-170, title IV, §402(b), Dec. 6, 2003, 117 Stat. 2062; Pub. L. 111-163, title VIII, §806, May 5, 2010, 124 Stat. 1179; Pub. L. 117-286, §4(b)(61), Dec. 27, 2022, 136 Stat. 4350.)

#### Editorial Notes

##### AMENDMENTS

2022—Subsec. (a)(1)(B). Pub. L. 117-286 substituted "sections 404(a)(1) and 406(a)(1) of title 5," for "sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978," and "chapter 4 of title 5," for "such Act."

2010—Subsec. (b). Pub. L. 111-163, §806(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Each such corporation shall submit to the Secretary an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. A corporation with revenues in excess of \$300,000 for any year shall obtain an audit of the corporation for that year. A corporation with annual revenues between \$10,000 and \$300,000 shall obtain an independent audit of the corporation at least once every three years. Any audit under the preceding sentences shall be performed by an independent auditor."