

REFERENCES IN TEXT

Section 3718(b) of this title, referred to in subsec. (b), was redesignated section 3718(d) of this title by Pub. L. 99-578, §1(1), Oct. 28, 1986, 100 Stat. 3305.

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103-272, as amended by Pub. L. 103-429, substituted a period for a comma at end of second sentence.

1984—Subsec. (c). Pub. L. 98-369 designated existing provisions as par. (1), struck out “, but not later than the 30th day after the custodian receives the money,” after “without delay” in first sentence, inserted after first sentence “Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money,”, and added par. (2).

1983—Subsec. (b). Pub. L. 97-452 inserted exception relating to section 3718(b) of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103-429 provided that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2652(b)(2) of Pub. L. 98-369 provided that: “The amendments made by this subsection [amending this section] shall become effective January 1, 1985.”

§ 3303. Designation of depositaries

(a) The Secretary of the Treasury designates depositaries of money as provided in this section and under other law.

(b) When necessary to carry out the business of the United States Government and under conditions the Secretary decides are necessary, the Secretary may designate depositaries in foreign countries and in territories and possessions of the United States to receive deposits of public money. The Secretary shall give preference to United States financial institutions the Secretary decides are safe and able to give the service required.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 949.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3303(a)	(no source).	
3303(b)	31:473.	June 19, 1922, ch. 228, 42 Stat. 662.

Subsection (a) is added to inform the reader that there are numerous other laws providing for the designation of depositaries. These other laws are scattered throughout the titles of the United States Code.

In subsection (b), the words “carry out” are substituted for “transaction” for consistency. The words “terms and . . . as to security and otherwise” and “of public moneys” are omitted as surplus. The words “territories and possessions of the United States” are substituted for “Territories and insular possessions of the United States” for consistency. The words “to receive deposits of public money” are added for clarity.

§ 3304. Transfers of public money from depositaries

The Secretary of the Treasury may transfer public money in the possession of a depositary—

- (1) to the Treasury; and
- (2) if the Secretary believes the safety of the public money and convenience require it, to another depositary.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 949.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3304	31:522.	R.S. §3640.

In the section, before clause (1), the words “except as provided in section 523 of this title” are omitted as superseded by title 39. The words “of the United States, to the credit of the Treasurer” are omitted as unnecessary. In clause (2), the words “if the Secretary believes the safety of the public money and convenience require it” are substituted for “as the safety of the public moneys and the convenience of the public service shall seem to him to require” for clarity and to eliminate unnecessary words.

§ 3305. Audits of depositaries

The Secretary of the Treasury, or an officer, employee, or agent designated by the Secretary, may audit a depositary of public money. For uniformity and accuracy in accounts and safety of public money, an individual conducting an audit shall audit a depositary’s—

- (1) books;
- (2) accounts;
- (3) returns; and
- (4) public money on hand and the way the money is kept.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 949.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3305	31:548.	R.S. §3649.

In the section, before clause (1), the words “or an officer, employee, or agent designated by the Secretary” are substituted for “and for that purpose to appoint special agents, as occasion may require” for clarity and consistency. The words “may audit a depositary of public money” are substituted for “is authorized to cause examinations to be made of the books, accounts and money on hand, of the several depositaries” to eliminate unnecessary words and for consistency. The words “with such compensation, not exceeding \$6 per day and traveling expenses, as he may think reasonable, to be fixed and declared at the time of each appointment” are omitted as superseded by 5:3109 and ch. 57. The words “be instructed to” and “as well” are omitted as surplus.

SUBCHAPTER II—PAYMENTS

§ 3321. Disbursing authority in the executive branch

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

- (1) United States Marshal’s Office.
- (2) The Department of Defense.

(3) The Department of Homeland Security,¹ (with respect to public money available for expenditure by the Coast Guard when it is not operating as a service in the Navy).

(d) On request of the Secretary and with the approval of the head of an executive agency referred to in subsection (c) of this section, facilities of the agency may be used to assist in disbursing public money available for expenditure by another executive agency.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 949; Pub. L. 103–355, title III, §3067, Oct. 13, 1994, 108 Stat. 3337; Pub. L. 104–106, div. A, title IX, §913(a)(1), Feb. 10, 1996, 110 Stat. 410; Pub. L. 104–201, div. A, title X, §1009(a)(1), Sept. 23, 1996, 110 Stat. 2633; Pub. L. 109–241, title IX, §902(b)(1), July 11, 2006, 120 Stat. 566.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3321(a), (b), 3321(c), (d).	5:901(note). 31:492–1. 5 App.	Exec. Order No. 6166, June 10, 1933, §4. R.S. §176; Sept. 6, 1966, Pub. L. 89–554, §8(a), 80 Stat. 632; June 6, 1972, Pub. L. 92–310, §231(a), 86 Stat. 209. Reorg. Plan No. 4 of 1940, eff. June 30, 1940, §§3, 4, 54 Stat. 1234. Exec. Order No. 6728, May 29, 1934.

The section uses the defined term “executive agency” in section 102 of the revised title because the source provisions of this section are from a reorganization plan and executive orders that apply only to departments, agencies, and instrumentalities of the executive branch of the United States Government.

In subsections (a) and (b), the words “Secretary of the Treasury” and “Secretary” are substituted for references to the Division of Disbursement and a Chief Disbursing Officer because of the source provisions restated in section 321(c) of the revised title. The words “public money” are substituted for “moneys of the United States” for consistency with the other source provisions restated in the section and for consistency in the chapter.

Subsection (a) is substituted for section 4(1st paragraph) of Executive Order No. 6166 to omit executed words.

In subsection (b), the words “may require” and “as the interests of” are omitted as unnecessary. The words “to establish local offices” are omitted because of the authority of the Secretary of the Treasury as the head of the Department of the Treasury and the authority of the Secretary under section 321 of the revised title. The text of section 4(last paragraph) is omitted as superseded by section 3325 of the revised title.

In subsection (c), the text of 31:492–1(1st sentence) is applied only to the listed agencies because of subsection (a) and Executive Order 6728. The text of 31:492–1(last sentence) is omitted as superseded by section 2 of Reorganization Plan No. 18 of 1950 (eff. July 1, 1950, 64 Stat. 1270) and by 40:490. In clause (1), the words after “disbursement by United States marshals” and before the last proviso in section 3 of Reorganization Plan No. 4 of 1940 (eff. June 30, 1940, 54 Stat. 1234) are omitted as unnecessary because of 28:571 and sections 3512(a)–(c) and 3513(a) of the revised title. In clause (2), the word “pay” is substituted for “salaries” in Executive Order No. 6728 for consistency in the revised title and with other titles of the United States Code. The words “including the Marine Corps” are omitted as being included in “military departments”. The words “Panama Canal” are omitted because of the Panama

Canal Treaty of 1977. The first proviso is omitted as unnecessary because of sections 3512 and 3513 of the revised title. Section 4 of Reorganization Plan No. 4 of 1940 is omitted because (1) the Post Office Department was abolished by the 1970 restatement of title 39, with all authority of the former Postmaster General being placed in the new United States Postal Service, (2) under 39:410 and 3604, the Postal Service and the Postal Rate Commission were exempt from all provisions of law related to budget and funds, and (3) the Postal Savings System and its Board of Trustees were abolished under section 5 of the Act of March 28, 1942 (ch. 205, 56 Stat. 189).

AMENDMENTS

2006—Subsec. (c)(3). Pub. L. 109–241 substituted “Department of Homeland Security.” for “Department of Transportation”.

1996—Subsec. (c)(2). Pub. L. 104–106 added par. (2) and struck out former par. (2) which read as follows: “The Department of Defense (except for disbursements for departmental pay and expenses in the District of Columbia).”

Subsec. (c)(3). Pub. L. 104–201 added par. (3).

1994—Subsec. (c)(2). Pub. L. 103–355 substituted “The Department of Defense” for “military departments of the Department of Defense”.

DETERMINATIONS OF AGENCY READINESS FOR OPINION ON INTERNAL CONTROL

Pub. L. 111–204, §2(g), July 22, 2010, 124 Stat. 2228, provided that: “Not later than 1 year after the date of enactment of this Act [July 22, 2010], the Director of the Office of Management and Budget shall develop—

“(1) specific criteria as to when an agency should initially be required to obtain an opinion on internal control over improper payments; and

“(2) criteria for an agency that has demonstrated a stabilized, effective system of internal control over improper payments, whereby the agency would qualify for a multiyear cycle for obtaining an audit opinion on internal control over improper payments, rather than an annual cycle.”

RECOVERY AUDITS

Pub. L. 111–204, §2(h), July 22, 2010, 124 Stat. 2228, provided that:

“(1) DEFINITION.—In this subsection, the term ‘agency’ has the meaning given under section 2(f) of the Improper Payments Information Act of 2002 [Pub. L. 107–300] (31 U.S.C. 3321 note) as redesignated by this Act.

“(2) IN GENERAL.—

“(A) CONDUCT OF AUDITS.—Except as provided under paragraph (4) and if not prohibited under any other provision of law, the head of each agency shall conduct recovery audits with respect to each program and activity of the agency that expends \$1,000,000 or more annually if conducting such audits would be cost-effective.

“(B) PROCEDURES.—In conducting recovery audits under this subsection, the head of an agency—

“(i) shall give priority to the most recent payments and to payments made in any program or programs identified as susceptible to significant improper payments under section 2(a) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note);

“(ii) shall implement this subsection in a manner designed to ensure the greatest financial benefit to the Government; and

“(iii) may conduct recovery audits directly, by using other departments and agencies of the United States, or by procuring performance of recovery audits by private sector sources by contract (subject to the availability of appropriations), or by any combination thereof.

“(C) RECOVERY AUDIT CONTRACTS.—With respect to recovery audits procured by an agency by contract—

¹ So in original. The period probably should not appear.

“(i) subject to subparagraph (B)(iii), and except to the extent such actions are outside the agency’s authority, as defined by section 605(a) [6(a)] of the Contract Disputes Act of 1978 ([former] 41 U.S.C. 605(a)) [now 41 U.S.C. 7103(a), (c)(1), (d), (e)], the head of the agency may authorize the contractor to notify entities (including persons) of potential overpayments made to such entities, respond to questions concerning potential overpayments, and take other administrative actions with respect to overpayment claims made or to be made by the agency; and

“(ii) such contractor shall have no authority to make final determinations relating to whether any overpayment occurred and whether to compromise, settle, or terminate overpayment claims.

“(D) CONTRACT TERMS AND CONDITIONS.—

“(i) IN GENERAL.—The agency shall include in each contract for procurement of performance of a recovery audit a requirement that the contractor shall—

“(I) provide to the agency periodic reports on conditions giving rise to overpayments identified by the contractor and any recommendations on how to mitigate such conditions;

“(II) notify the agency of any overpayments identified by the contractor pertaining to the agency or to any other agency or agencies that are beyond the scope of the contract; and

“(III) report to the agency credible evidence of fraud or vulnerabilities to fraud, and conduct appropriate training of personnel of the contractor on identification of fraud.

“(ii) REPORTS ON ACTIONS TAKEN.—Not later than November 1 of each year, each agency shall submit a report on actions taken by the agency during the preceding fiscal year to address the recommendations described under clause (i)(I) to—

“(I) the Office of Management and Budget; and

“(II) Congress.

“(E) AGENCY ACTION FOLLOWING NOTIFICATION.—An agency shall take prompt and appropriate action in response to a report or notification by a contractor under subparagraph (D)(i)(I) or (II), to collect overpayments and shall forward to other agencies any information that applies to such agencies.

“(3) DISPOSITION OF AMOUNTS RECOVERED.—

“(A) IN GENERAL.—Amounts collected by agencies each fiscal year through recovery audits conducted under this subsection shall be treated in accordance with this paragraph. The agency head shall determine the distribution of collected amounts, less amounts needed to fulfill the purposes of section 3562(a) of title 31, United States Code, in accordance with subparagraphs (B), (C), and (D).

“(B) USE FOR FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—Not more than 25 percent of the amounts collected by an agency through recovery audits—

“(i) shall be available to the head of the agency to carry out the financial management improvement program of the agency under paragraph (4);

“(ii) may be credited, if applicable, for that purpose by the head of an agency to any agency appropriations and funds that are available for obligation at the time of collection; and

“(iii) shall be used to supplement and not supplant any other amounts available for that purpose and shall remain available until expended.

“(C) USE FOR ORIGINAL PURPOSE.—Not more than 25 percent of the amounts collected by an agency—

“(i) shall be credited to the appropriation or fund, if any, available for obligation at the time of collection for the same general purposes as the appropriation or fund from which the overpayment was made;

“(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited; and

“(iii) if the appropriation from which the overpayment was made has expired, shall be newly

available for the same time period as the funds were originally available for obligation, except that any amounts that are recovered more than five fiscal years from the last fiscal year in which the funds were available for obligation shall be deposited in the Treasury as miscellaneous receipts, except that in the case of recoveries of overpayments that are made from trust or special fund accounts, such amounts shall revert to those accounts.

“(D) USE FOR INSPECTOR GENERAL ACTIVITIES.—Not more than 5 percent of the amounts collected by an agency shall be available to the Inspector General of that agency—

“(i) for—

“(I) the Inspector General to carry out this Act [see Short Title of 2010 Amendment note set out under section 3301 of this title]; or

“(II) any other activities of the Inspector General relating to investigating improper payments or auditing internal controls associated with payments; and

“(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited.

“(E) REMAINDER.—Amounts collected that are not applied in accordance with subparagraph (A), (B), (C), or (D) shall be deposited in the Treasury as miscellaneous receipts, except that in the case of recoveries of overpayments that are made from trust or special fund accounts, such amounts shall revert to those accounts.

“(F) DISCRETIONARY AMOUNTS.—This paragraph shall apply only to recoveries of overpayments that are made from discretionary appropriations (as that term is defined by paragraph 7 of [subsection (c) of] section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900(c)(7)]) and shall not apply to recoveries of overpayments that are made from discretionary amounts that were appropriated prior to enactment of this Act [July 22, 2010].

“(G) APPLICATION.—This paragraph shall not apply to recoveries of overpayments if the appropriation from which the overpayment was made has not expired.

“(4) FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—

“(A) REQUIREMENT.—The head of each agency shall conduct a financial management improvement program, consistent with rules prescribed by the Director of the Office of Management and Budget.

“(B) PROGRAM FEATURES.—In conducting the program, the head of the agency—

“(i) shall, as the first priority of the program, address problems that contribute directly to agency improper payments; and

“(ii) may seek to reduce errors and waste in other agency programs and operations.

“(5) PRIVACY PROTECTIONS.—Any nongovernmental entity that, in the course of recovery auditing or recovery activity under this subsection, obtains information that identifies an individual or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual, may not disclose the information for any purpose other than such recovery auditing or recovery activity and governmental oversight of such activity, unless disclosure for that other purpose is authorized by the individual to the executive agency that contracted for the performance of the recovery auditing or recovery activity.

“(6) OTHER RECOVERY AUDIT REQUIREMENTS.—

“(A) IN GENERAL.—(i) Except as provided in clause (ii), subchapter VI of chapter 35 of title 31, United States Code, is repealed.

“(ii) Section 3562(a) of title 31, United States Code, shall continue in effect, except that references in such section 3562(a) to programs carried out under section 3561 of such title, shall be interpreted to mean programs carried out under section 2(h) of this Act.

“(B) TECHNICAL AND CONFORMING AMENDMENTS.—

“(i) TABLE OF SECTIONS.—[Amended analysis of chapter 35 of this title.]

“(ii) DEFINITION.—[Amended section 3501 of this title.]

“(iii) HOMELAND SECURITY GRANTS.—[Amended section 612 of Title 6, Domestic Security.]

“(7) RULE OF CONSTRUCTION.—Except as provided under paragraph (5), nothing in this section shall be construed as terminating or in any way limiting authorities that are otherwise available to agencies under existing provisions of law to recover improper payments and use recovered amounts.”

COMPLIANCE

Pub. L. 111-204, §3, July 22, 2010, 124 Stat. 2232, provided that:

“(a) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ has the meaning given under section 2(f) of the Improper Payments Information Act of 2002 [Pub. L. 107-300] (31 U.S.C. 3321 note) as redesignated by this Act.

“(2) ANNUAL FINANCIAL STATEMENT.—The term ‘annual financial statement’ means the annual financial statement required under section 3515 of title 31, United States Code, or similar provision of law.

“(3) COMPLIANCE.—The term ‘compliance’ means that the agency—

“(A) has published an annual financial statement for the most recent fiscal year and posted that report and any accompanying materials required under guidance of the Office of Management and Budget on the agency website;

“(B) if required, has conducted a program specific risk assessment for each program or activity that conforms with section 2(a) the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note); and

“(C) if required, publishes improper payments estimates for all programs and activities identified under section 2(b) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in the accompanying materials to the annual financial statement;

“(D) publishes programmatic corrective action plans prepared under section 2(c) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) that the agency may have in the accompanying materials to the annual financial statement;

“(E) publishes improper payments reduction targets established under section 2(c) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) that the agency may have in the accompanying materials to the annual financial statement for each program assessed to be at risk, and is meeting such targets; and

“(F) has reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 2(b) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

“(b) ANNUAL COMPLIANCE REPORT BY INSPECTORS GENERAL OF AGENCIES.—Each fiscal year, the Inspector General of each agency shall determine whether the agency is in compliance and submit a report on that determination to—

“(1) the head of the agency;

“(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

“(4) the Comptroller General.

“(c) REMEDIATION.—

“(1) NONCOMPLIANCE.—

“(A) IN GENERAL.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) in a fiscal year, the head of the agency shall submit a plan to Congress describing the actions that the agency will take to come into compliance.

“(B) PLAN.—The plan described under subparagraph (A) shall include—

“(i) measurable milestones to be accomplished in order to achieve compliance for each program or activity;

“(ii) the designation of a senior agency official who shall be accountable for the progress of the agency in coming into compliance for each program or activity; and

“(iii) the establishment of an accountability mechanism, such as a performance agreement, with appropriate incentives and consequences tied to the success of the official designated under clause (ii) in leading the efforts of the agency to come into compliance for each program and activity.

“(2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

“(A) IN GENERAL.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) for 2 consecutive fiscal years for the same program or activity, and the Director of the Office of Management and Budget determines that additional funding would help the agency come into compliance, the head of the agency shall obligate additional funding, in an amount determined by the Director, to intensified compliance efforts.

“(B) FUNDING.—In providing additional funding described under subparagraph (A), the head of an agency shall use any reprogramming or transfer authority available to the agency. If after exercising that reprogramming or transfer authority additional funding is necessary to obligate the full level of funding determined by the Director of the Office of Management and Budget under subparagraph (A), the agency shall submit a request to Congress for additional reprogramming or transfer authority.

“(3) REAUTHORIZATION AND STATUTORY PROPOSALS.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) for more than 3 consecutive fiscal years for the same program or activity, the head of the agency shall, not later than 30 days after such determination, submit to Congress—

“(A) reauthorization proposals for each program or activity that has not been in compliance for 3 or more consecutive fiscal years; or

“(B) proposed statutory changes necessary to bring the program or activity into compliance.

“(d) COMPLIANCE ENFORCEMENT PILOT PROGRAMS.—

“(1) IN GENERAL.—The Director of the Office of Management and Budget may establish 1 or more pilot programs which shall test potential accountability mechanisms with appropriate incentives and consequences tied to success in ensuring compliance with this Act [see Short Title of 2010 Amendment note set out under section 3301 of this title] and eliminating improper payments.

“(2) REPORT.—Not later than 5 years after the date of enactment of this Act [July 22, 2010], the Director of the Office of Management and Budget shall submit a report to Congress on the findings associated with any pilot programs conducted under paragraph (1). The report shall include any legislative or other recommendations that the Director determines necessary.

“(e) REPORT ON CHIEF FINANCIAL OFFICERS ACT OF 1990.—Not later than 1 year after the date of the enactment of this Act [July 22, 2010], the Chief Financial Officers Council established under section 302 of the Chief Financial Officers Act of 1990 [Pub. L. 101-576] (31 U.S.C. 901 note) and the Council of Inspectors General on Integrity and Efficiency established under section 7 of the Inspector General Reform Act of 2009 [2008] (Public Law 110-409) [see section 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, Government Organization and Employees], in consultation with a broad cross-section of experts and stakeholders in Government accounting and financial management shall—

“(1) jointly examine the lessons learned during the first 20 years of implementing the Chief Financial Of-

ficers Act of 1990 [Pub. L. 101-576] (31 U.S.C. 901) [see Short Title of 1990 Amendment note set out under section 501 of this title] and identify reforms or improvements, if any, to the legislative and regulatory compliance framework for Federal financial management that will optimize Federal agency efforts to—

“(A) publish relevant, timely, and reliable reports on Government finances; and

“(B) implement internal controls that mitigate the risk for fraud, waste, and error in Government programs; and

“(2) jointly submit a report on the results of the examination to—

“(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(B) the Committee on Oversight and Government Reform of the House of Representatives; and

“(C) the Comptroller General.”

IMPROPER PAYMENTS

Pub. L. 107-300, Nov. 26, 2002, 116 Stat. 2350, as amended by Pub. L. 111-204, §2(a)-(f), July 22, 2010, 124 Stat. 2224-2228, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Improper Payments Information Act of 2002’.

“SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

“(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—

“(1) IN GENERAL.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, periodically review all programs and activities that the relevant agency head administers and identify all programs and activities that may be susceptible to significant improper payments.

“(2) FREQUENCY.—Reviews under paragraph (1) shall be performed for each program and activity that the relevant agency head administers during the year after which the Improper Payments Elimination and Recovery Act of 2010 is enacted [July 22, 2010] and at least once every 3 fiscal years thereafter. For those agencies already performing a risk assessment every 3 years, agencies may apply to the Director of the Office of Management and Budget for a waiver from the requirement of the preceding sentence and continue their 3-year risk assessment cycle.

“(3) RISK ASSESSMENTS.—

“(A) DEFINITION.—In this subsection the term ‘significant’ means—

“(i) except as provided under clause (ii), that improper payments in the program or activity in the preceding fiscal year may have exceeded—

“(I) \$10,000,000 of all program or activity payments made during that fiscal year reported and 2.5 percent of program outlays; or

“(II) \$100,000,000; and

“(ii) with respect to fiscal years following September 30th of a fiscal year beginning before fiscal year 2013 as determined by the Office of Management and Budget, that improper payments in the program or activity in the preceding fiscal year may have exceeded—

“(I) \$10,000,000 of all program or activity payments made during that fiscal year reported and 1.5 percent of program outlays; or

“(II) \$100,000,000.

“(B) SCOPE.—In conducting the reviews under paragraph (1), the head of each agency shall take into account those risk factors that are likely to contribute to a susceptibility to significant improper payments, such as—

“(i) whether the program or activity reviewed is new to the agency;

“(ii) the complexity of the program or activity reviewed;

“(iii) the volume of payments made through the program or activity reviewed;

“(iv) whether payments or payment eligibility decisions are made outside of the agency, such as by a State or local government;

“(v) recent major changes in program funding, authorities, practices, or procedures;

“(vi) the level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate; and

“(vii) significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification.

“(b) ESTIMATION OF IMPROPER PAYMENTS.—With respect to each program and activity identified under subsection (a), the head of the relevant agency shall—

“(1) produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the Office of Management and Budget, of the improper payments made by each program and activity; and

“(2) include those estimates in the accompanying materials to the annual financial statement of the agency required under section 3515 of title 31, United States Code, or similar provision of law and applicable guidance of the Office of Management and Budget.

“(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce improper payments, including—

“(1) a description of the causes of the improper payments, actions planned or taken to correct those causes, and the planned or actual completion date of the actions taken to address those causes;

“(2) in order to reduce improper payments to a level below which further expenditures to reduce improper payments would cost more than the amount such expenditures would save in prevented or recovered improper payments, a statement of whether the agency has what is needed with respect to—

“(A) internal controls;

“(B) human capital; and

“(C) information systems and other infrastructure;

“(3) if the agency does not have sufficient resources to establish and maintain effective internal controls under paragraph (2)(A), a description of the resources the agency has requested in its budget submission to establish and maintain such internal controls;

“(4) program-specific and activity-specific improper payments reduction targets that have been approved by the Director of the Office of Management and Budget; and

“(5) a description of the steps the agency has taken to ensure that agency managers, programs, and, where appropriate, States and localities are held accountable through annual performance appraisal criteria for—

“(A) meeting applicable improper payments reduction targets; and

“(B) establishing and maintaining sufficient internal controls, including an appropriate control environment, that effectively—

“(i) prevent improper payments from being made; and

“(ii) promptly detect and recover improper payments that are made.

“(d) REPORTS ON ACTIONS TO RECOVER IMPROPER PAYMENTS.—With respect to any improper payments identified in recovery audits conducted under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 [Pub. L. 111-204] (31 U.S.C. 3321 note), the head of the agency shall provide with the estimate under subsection (b) a report on all actions the agency is taking to recover improper payments, including—

“(1) a discussion of the methods used by the agency to recover overpayments;

“(2) the amounts recovered, outstanding, and determined to not be collectable, including the percent such amounts represent of the total overpayments of the agency;

“(3) if a determination has been made that certain overpayments are not collectable, a justification of that determination;

“(4) an aging schedule of the amounts outstanding;

“(5) a summary of how recovered amounts have been disposed of;

“(6) a discussion of any conditions giving rise to improper payments and how those conditions are being resolved; and

“(7) if the agency has determined under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note) that performing recovery audits for any applicable program or activity is not cost-effective, a justification for that determination.

“(e) GOVERNMENTWIDE REPORTING OF IMPROPER PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAYMENTS.—

“(1) REPORT.—Each fiscal year the Director of the Office of Management and Budget shall submit a report with respect to the preceding fiscal year on actions agencies have taken to report information regarding improper payments and actions to recover improper overpayments to—

“(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) the Committee on Oversight and Government Reform of the House of Representatives.

“(2) CONTENTS.—Each report under this subsection shall include—

“(A) a summary of the reports of each agency on improper payments and recovery actions submitted under this section;

“(B) an identification of the compliance status of each agency to which this Act applies;

“(C) governmentwide improper payment reduction targets; and

“(D) a discussion of progress made towards meeting governmentwide improper payment reduction targets.

“(f) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ means an executive agency, as that term is defined in section 102 of title 31, United States Code.

“(2) IMPROPER PAYMENT.—The term ‘improper payment’—

“(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

“(B) includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts.

“(3) PAYMENT.—The term ‘payment’ means any transfer or commitment for future transfer of Federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any non-Federal person or entity, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.

“(4) PAYMENT FOR AN INELIGIBLE GOOD OR SERVICE.—The term ‘payment for an ineligible good or service’ shall include a payment for any good or service that is rejected under any provision of any contract, grant, lease, cooperative agreement, or any other funding mechanism.

“(g) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Improper Payments Elimination and Recovery Act of 2010 [July 22, 2010], the Director of the Office of Management and Budget

shall prescribe guidance for agencies to implement the requirements of this section. The guidance shall not include any exemptions to such requirements not specifically authorized by this section.

“(2) CONTENTS.—The guidance under paragraph (1) shall prescribe—

“(A) the form of the reports on actions to reduce improper payments, recovery actions, and governmentwide reporting; and

“(B) strategies for addressing risks and establishing appropriate prepayment and postpayment internal controls.”

EX. ORD. NO. 13520. REDUCING IMPROPER PAYMENTS

Ex. Ord. No. 13520, Nov. 20, 2009, 74 F.R. 62201, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in the interest of reducing payment errors and eliminating waste, fraud, and abuse in Federal programs, it is hereby ordered as follows:

SECTION 1. *Purpose.* When the Federal Government makes payments to individuals and businesses as program beneficiaries, grantees, or contractors, or on behalf of program beneficiaries, it must make every effort to confirm that the right recipient is receiving the right payment for the right reason at the right time. The purpose of this order is to reduce improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the Federal Government, while continuing to ensure that Federal programs serve and provide access to their intended beneficiaries. No single step will fully achieve these goals. Therefore, this order adopts a comprehensive set of policies, including transparency and public scrutiny of significant payment errors throughout the Federal Government; a focus on identifying and eliminating the highest improper payments; accountability for reducing improper payments among executive branch agencies and officials; and coordinated Federal, State, and local government action in identifying and eliminating improper payments. Because this order targets error, waste, fraud, and abuse—not legitimate use of Government services—efforts to reduce improper payments under this order must protect access to Federal programs by their intended beneficiaries.

SEC. 2. *Transparency and Public Participation.*

(a) Within 90 days of the date of this order, the Director of the Office of Management and Budget (OMB) shall:

(i) identify Federal programs in which the highest dollar value or majority of Government-wide improper payments occur (high-priority programs);

(ii) establish, in coordination with the executive department or agency (agency) responsible for administering the high-priority program annual or semi-annual targets (or where such targets already exist, supplemental targets), as appropriate, for reducing improper payments associated with each high-priority program;

(iii) issue Government-wide guidance on the implementation of this order, including procedures for identifying and publicizing the list of entities described in subsection (b)(v) of this section and for administrative appeal of the decision to publish the identity of those entities, prior to publication; and

(iv) establish a working group consisting of Federal, State, and local officials to make recommendations to the Director of OMB designed to improve the Federal Government’s measurement of access to Federal programs by the programs’ intended beneficiaries. The working group’s recommendations shall be prepared in consultation with the Council of Inspectors General on Integrity and Efficiency (CIGIE) and submitted within 180 days of the date of this order, and the recommended measurements may be incorporated by the Secretary of the Treasury in the information published pursuant to subsection (b) of this section.

(b) Within 180 days of the date of this order, the Secretary of the Treasury in coordination with the Attorney General and the Director of OMB, shall publish on the Internet information about improper payments under high-priority programs. The information shall include, subject to Federal privacy policies and to the extent permitted by law:

- (i) the names of the accountable officials designated under section 3 of this order;
- (ii) current and historical rates and amounts of improper payments, including, where known and appropriate, causes of the improper payments;
- (iii) current and historical rates and amounts of recovery of improper payments, where appropriate (or, where improper payments are identified solely on the basis of a sample, recovery rates and amounts estimated on the basis of the applicable sample);
- (iv) targets for reducing as well as recovering improper payments, where appropriate; and
- (v) the entities that have received the greatest amount of outstanding improper payments (or, where improper payments are identified solely on the basis of a sample, the entities that have received the greatest amount of outstanding improper payments in the applicable sample).

Information on entities that have received the greatest amount of outstanding improper payments shall not include any referrals the agency made or anticipates making to the Department of Justice, or any information provided in connection with such referrals.

(c) Within 180 days of the date of this order, the Secretary of the Treasury in coordination with the Attorney General and the Director of OMB and in consultation with the CIGIE, shall establish a central Internet-based method to collect from the public information concerning suspected incidents of waste, fraud, and abuse by an entity receiving Federal funds that have led or may lead to improper payments by the Federal Government.

(d) Agencies shall place a prominently displayed link to Internet-based resources for addressing improper payments, including the resources established under subsections (b) and (c) of this section, on their Internet home pages.

SEC. 3. Agency Accountability and Coordination.

(a) Within 120 days of the date of this order, the head of each agency responsible for operating a high-priority program shall designate an official who holds an existing Senate-confirmed position to be accountable for meeting the targets established under section 2 of this order without unduly burdening program access and participation by eligible beneficiaries. In those agencies where the majority of payments are isolated to a single component, the head of the agency shall name a second accountable official for that component whose sole responsibility would be for program integrity activities and, as appropriate, shall consolidate and coordinate all program integrity activities within the component.

(b) Within 180 days of the date of this order, each agency official designated under subsection (a) of this section, or otherwise designated by the Director of OMB, shall provide the agency's Inspector General a report containing:

- (i) the agency's methodology for identifying and measuring improper payments by the agency's high-priority programs;
- (ii) the agency's plans, together with supporting analysis, for meeting the reduction targets for improper payments in the agency's high-priority programs; and
- (iii) the agency's plan, together with supporting analysis, for ensuring that initiatives undertaken pursuant to this order do not unduly burden program access and participation by eligible beneficiaries.

Following the receipt and review of this information, the agency Inspector General shall assess the level of risk associated with the applicable programs, determine the extent of oversight warranted, and provide the agency head with recommendations, if any, for

modifying the agency's methodology, improper payment reduction plans, or program access and participation plans.

(c) If an agency fails to meet the targets established under section 2 of this order or implement the plan described in subsection (b)(iii) of this section for 2 consecutive years, that agency's accountable official designated under subsection (a) of this section shall submit to the agency head, Inspector General, and Chief Financial Officer a report describing the likely causes of the agency's failure and proposing a remedial plan. The agency head shall review this plan and, in consultation with the Inspector General and Chief Financial Officer, forward the plan with any additional comments and analysis to the Director of OMB.

(d) Within 180 days of the date of this order, the Chief Financial Officers Council (CFOC) in consultation with the CIGIE, the Department of Justice, and program experts, shall make recommendations to the Director of OMB and the Secretary of the Treasury on actions (including actions related to forensic accounting and audits) agencies should take to more effectively tailor their methodologies for identifying and measuring improper payments to those programs, or components of programs, where improper payments are most likely to occur. Recommendations shall address the manner in which the recommended actions would affect program access and participation by eligible beneficiaries.

(e) Within 180 days of the date of this order, the Secretary of the Treasury and the Director of OMB in consultation with the CIGIE, the Department of Justice, and program experts, shall recommend to the President actions designed to reduce improper payments by improving information sharing among agencies and programs, and where applicable, State and local governments and other stakeholders. The recommendations shall address the ways in which information sharing may improve eligibility verification and pre-payment scrutiny, shall identify legal or regulatory impediments to effective information sharing, and shall address the manner in which the recommended actions would affect program access and participation by eligible beneficiaries.

(f) Within 180 days of the date of this order, and at least once every quarter thereafter, the head of each agency shall submit to the agency's Inspector General and the CIGIE, and make available to the public, a report on any high-dollar improper payments identified by the agency, subject to Federal privacy policies and to the extent permitted by law. The report shall describe any actions the agency has taken or plans to take to recover improper payments, as well as any actions the agency intends to take to prevent improper payments from occurring in the future. The report shall not include any referrals the agency made or anticipates making to the Department of Justice, or any information provided in connection with such referrals. Following the review of each report, the agency Inspector General and the CIGIE shall assess the level of risk associated with the applicable program, determine the extent of oversight warranted, and provide the agency head with recommendations, if any, for modifying the agency's plans.

SEC. 4. Enhanced Focus on Contractors and Working with State and Local Stakeholders.

(a) Within 180 days of the date of this order, the Federal Acquisition Regulatory Council, in coordination with the Director of OMB, and in consultation with the National Procurement Fraud Task Force (or its successor group), the CIGIE, and appropriate agency officials, shall recommend to the President actions designed to enhance contractor accountability for improper payments. The recommendations may include, but are not limited to, subjecting contractors to debarment, suspension, financial penalties, and identification through a public Internet website, subject to Federal privacy policies and to the extent permitted by law and where the identification would not interfere with or compromise an ongoing criminal or civil investigation, for knowingly failing timely to disclose credible evidence

of significant overpayments received on Government contracts.

(b) Within 30 days of the date of this order, the Director of OMB shall establish a working group consisting of Federal and elected State and local officials to make recommendations to the Director of OMB designed to improve the effectiveness of single audits of State and local governments and non-profit organizations that are expending Federal funds. The Director of OMB may designate an appropriate official to serve as Chair of the working group to convene its meetings and direct its work. The working group's recommendations shall be prepared in consultation with the CIGIE and submitted within 180 days of the date of this order. The recommendations shall address, among other things, the effectiveness of single audits in identifying improper payments and opportunities to streamline or eliminate single audit requirements where their value is minimal.

(c) Within 30 days of the date of this order, the Director of OMB shall establish a working group (which may be separate from the group established under subsection (b) of this section) consisting of Federal and elected State and local officials to make recommendations to the Director of OMB for administrative actions designed to improve the incentives and accountability of State and local governments, as well as other entities receiving Federal funds, for reducing improper payments. The Director of OMB may designate an appropriate official to serve as Chair of the working group to convene its meetings and direct its work. The working group's recommendations shall be prepared in consultation with the CIGIE and submitted within 180 days of the date of this order.

SEC. 5. *Policy Proposals.* The Director of OMB, in consultation with the appropriate agencies and the CIGIE, shall develop policy recommendations, including potential legislative proposals, designed to reduce improper payments, including those caused by error, waste, fraud, and abuse, across Federal programs without compromising program access, to be included, as appropriate, in the Budget of the United States Government for Fiscal Year 2011 and future years, or other Administration proposals.

SEC. 6. *General Provisions.*

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department, agency, the head thereof, or any agency Inspector General; or

(ii) functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) Nothing in this order shall be construed to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interests of national security.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) 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 departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

FINDING AND RECAPTURING IMPROPER PAYMENTS

Memorandum of President of the United States, Mar. 10, 2010, 75 F.R. 12119, provided:

Memorandum for the Heads of Executive Departments and Agencies

My Administration is committed to reducing payment errors and eliminating waste, fraud, and abuse in Federal programs—a commitment reflected in Executive Order 13520 of November 20, 2009, Reducing Improper Payments. Executive departments and agencies should use every tool available to identify and subsequently reclaim the funds associated with improper payments. Thorough identification of improper pay-

ments promotes accountability at executive departments and agencies; it also makes the integrity of Federal spending transparent to taxpayers. Reclaiming the funds associated with improper payments is a critical component of the proper stewardship and protection of taxpayer dollars, and it underscores that waste, fraud, and abuse by entities receiving Federal payments will not be tolerated.

Today, to further intensify efforts to reclaim improper payments, my Administration is expanding the use of "Payment Recapture Audits," which have proven to be effective mechanisms for detecting and recapturing payment errors. A Payment Recapture Audit is a process of identifying improper payments paid to contractors or other entities whereby highly skilled accounting specialists and fraud examiners use state-of-the-art tools and technology to examine payment records and uncover such problems as duplicate payments, payments for services not rendered, overpayments, and fictitious vendors. (A Payment Recapture Audit as used in this memorandum shall have the same meaning as the term "recovery audit" as defined in Appendix C to Office of Management and Budget Circular A-123.) One approach that has worked effectively is using professional and specialized auditors on a contingency basis, with their compensation tied to the identification of misspent funds.

Therefore, I hereby direct executive departments and agencies to expand their use of Payment Recapture Audits, to the extent permitted by law and where cost-effective. The Director of the Office of Management and Budget (OMB) shall develop guidance within 90 days of the date of this memorandum on actions executive departments and agencies must take to carry out the requirements of this memorandum. The guidance may require additional actions and strategies designed to improve the recapture of improper payments, including, as appropriate, agency-specific targets for increasing recoveries. The Director of the OMB shall further coordinate with the Council for Inspectors General on Integrity and Efficiency to identify an appropriate process for obtaining review by Inspectors General of the effectiveness of agency efforts under this memorandum. The agencies' expanded use of Payment Recapture Audits does not preclude Offices of Inspectors General from performing any activities to identify and prevent improper payments.

Nothing in this memorandum shall be construed to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interests of national security.

This memorandum 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 departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

ENHANCING PAYMENT ACCURACY THROUGH A "DO NOT PAY LIST"

Memorandum of President of the United States, June 18, 2010, 75 F.R. 35953, provided:

Memorandum for the Heads of Executive Departments and Agencies

My Administration is committed to eliminating waste, fraud, and abuse in Federal programs, including reducing and recapturing erroneous payments—a commitment I reinforced in Executive Order 13520 of November 20, 2009, and in a memorandum to the heads of executive departments and agencies (agencies) of March 10, 2010. While identifying and recapturing improper payments is important, prevention of payment errors before they occur should be the first priority in protecting taxpayer resources from waste, fraud, and

abuse. In those cases where data available to agencies clearly shows that a potential recipient of a Federal payment is ineligible for it, subsequent payment to that recipient is unacceptable. We must ensure that such payments are not made.

Agencies maintain many databases containing information on a recipient's eligibility to receive Federal benefits payments or Federal awards, such as grants and contracts. By checking these databases before making payments or awards, agencies can identify ineligible recipients and prevent certain improper payments from being made in the first place.

Therefore, I hereby direct agencies to review current pre-payment and pre-award procedures and ensure that a thorough review of available databases with relevant information on eligibility occurs before the release of any Federal funds, to the extent permitted by law. At a minimum, agencies shall, before payment and award, check the following existing databases (where applicable and permitted by law) to verify eligibility: the Social Security Administration's Death Master File, the General Services Administration's Excluded Parties List System, the Department of the Treasury's Debt Check Database, the Department of Housing and Urban Development's Credit Alert System or Credit Alert Interactive Voice Response System, and the Department of Health and Human Services' Office of Inspector General's List of Excluded Individuals/Entities. This network of databases, and additional databases so designated by the Director of the Office of Management and Budget (OMB) in consultation with agencies, shall be collectively known as the "Do Not Pay List." This memorandum requires agencies to review these databases with the recognition that there may be circumstances when the law nevertheless requires a payment or award to be made to a recipient listed in them. My Administration began coordination of the databases discussed in this memorandum in April 2010 by launching the Federal Awardee Performance and Integrity Information System (FAPIIS), which integrates various sources of information on the eligibility of Government contractors for award. No later than 120 days of the date of this memorandum, the Director of the OMB shall provide to the President a plan for completing integration for the remaining databases, to the extent permitted by law, so that agencies can access them through a single entry point.

Each agency shall, within 90 days of the date of this memorandum, submit to the OMB a plan that includes information on its current pre-payment and pre-award procedures and a list of databases that the agency checks pursuant to those procedures. Within 180 days of the date of this memorandum, the Director of the OMB shall issue guidance, to be developed in consultation with affected agencies and taking into account current agency pre-payment and pre-award practices, on actions agencies must take to carry out this memorandum's requirements. This guidance shall clarify that the head of each agency is responsible for ensuring an efficient and accurate process for determining whether the information provided on the "Do Not Pay List" is sufficient to stop a payment, consistent with applicable laws and regulations, and, if so, whether a payment should be stopped under the circumstances. In addition, this guidance shall identify best practices and databases that agencies should utilize to conduct pre-payment checks to ensure that only eligible recipients receive Government benefits or payments.

This memorandum 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 departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 3322. Disbursing officials

(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. Except as provided in section 3716 and section 3720A of this title and subsection (b) of this section, a disbursing official shall—

- (1) deposit public money as required by section 3302 of this title; and
- (2) draw public money from the Treasury or a depository only—
 - (A) as necessary to make payments; and
 - (B) payable to persons to whom payment is to be made.

(b) In a place without a depository, the Secretary, on deciding it is essential to the public interest, may authorize specially in writing that public money be—

- (1) deposited in any other public depository; or
- (2) kept in another manner under regulations the Secretary decides are the safest and most effective in making a payment to a public creditor easier.

(c) A disbursing official is not liable for an overpayment provided under a United States Government bill of lading or transportation request when the overpayment is caused by the—

- (1) use of improper transportation rates or classifications if the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government; or
- (2) failure to deduct the proper amount under—
 - (A) a land grant law; or
 - (B) an equalization or other agreement.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 950; Pub. L. 98-216, §1(3), Feb. 14, 1984, 98 Stat. 3; Pub. L. 104-134, title III, §31001(g)(1)(A), Apr. 26, 1996, 110 Stat. 1321-363; Pub. L. 105-264, §3(a)(1), Oct. 19, 1998, 112 Stat. 2352.)

HISTORICAL AND REVISION NOTES
1982 ACT

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3322(a)	31:492(a).	R.S. §3620(a); Feb. 27, 1877, ch. 69(7th complete par. on p. 249), 19 Stat. 249; Aug. 28, 1965, Pub. L. 89-145, §1(1), 79 Stat. 582.
3322(b)	31:82g(related to disbursing officers).	June 1, 1942, ch. 320(related to disbursing officers), 56 Stat. 306.

In the section, the words "disbursing official" are substituted for "disbursing officer" for consistency in the revised title.

In subsection (a), before clause (1), the words "Secretary of the Treasury" are substituted for "Treasurer of the United States" because of the source provisions restated in section 321(c) of the revised title. The words "or an assistant treasurer of the United States" in section 3620(a) of the Revised Statutes are omitted as obsolete because of the 1st-4th pars. under the heading "Independent Treasury" in the Act of May 29, 1920 (ch. 214, 41 Stat. 654). In clause (1), the words "as required by section 3302 of this title" are substituted for "with the Treasurer or some one of the assistant treasurers of

the United States (subsequently changed to 'or with one of the depositories of the United States mentioned in section 476 of this title')' because of 31:476. In clause (2), the words "in pursuance of law" are omitted as surplus. The text of 31:492(a)(last sentence) is omitted because of section 3323(a) of the revised title.

In subsection (b), before clause (1), the words "On and after June 1, 1942" are omitted as executed. The words "of the United States" are omitted as unnecessary. The words "for transportation" are omitted as surplus.

1984 ACT

This is necessary because section 3620(a) (last sentence) of the Revised Statutes inadvertently was omitted from the codification of title 31 by section 1 of the Act of September 13, 1982 (Pub. L. 97-258, 96 Stat. 877).

In subsection (a), before clause (1), the words "Except as provided in subsection (b) of this section" are added because of the restatement.

In subsection (b), before clause (1), the word "however" is omitted as surplus. The words "treasurer or" are omitted as obsolete because of the 1st-4th pars. under the heading "Independent Treasury" in the Act of May 29, 1920 (ch. 214, 41 Stat. 654). In clause (2), the words "rules and" are omitted as surplus.

AMENDMENTS

1998—Subsec. (c)(1). Pub. L. 105-264 inserted "if the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or sub-agency, will not adequately protect the interests of the Government" after "classifications".

1996—Subsec. (a). Pub. L. 104-134 inserted "section 3716 and section 3720A of this title and" after "Except as provided in" in introductory provisions.

1984—Subsec. (a). Pub. L. 98-216 amended subsec. (a) generally, substituting "Except as provided in subsection (b) of this section, a" for "A" in second sentence.

Subsecs. (b), (c). Pub. L. 98-216 added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-264, §3(b), Oct. 19, 1998, 112 Stat. 2354, provided that: "The amendments made by this section [amending this section and sections 3528 and 3726 of this title] shall become effective 18 months after the date of the enactment of this Act [Oct. 19, 1998]."

EFFECTIVE DATE OF 1996 AMENDMENT

Section 31001(a)(2)(A) of Pub. L. 104-134 provided that: "The provisions of this section [enacting sections 3720B to 3720E of this title, amending this section, sections 3325, 3331, 3332, 3343, 3701, 3711, 3712, 3716 to 3719, 3720A, and 7701 of this title, section 5514 of Title 5, Government Organization and Employees, sections 6050P, 6103, and 6402 of Title 26, Internal Revenue Code, and sections 404 and 664 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 3701, 3711, 3716, and 3719 of this title and section 2461 of Title 28, Judiciary and Judicial Procedure, amending provisions set out as notes under section 7701 of this title and section 2461 of Title 28, and repealing provisions set out as notes under section 3718 of this title] and the amendments made by this section shall take effect on the date of the enactment of this Act [Apr. 26, 1996]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-216 effective Sept. 13, 1982, see section 4(c) of Pub. L. 98-216, set out as a note under section 490 of Title 18, Crimes and Criminal Procedure.

§ 3323. Warrants

(a) Except as provided in section 3326 of this title, the Secretary of the Treasury may pay out

money only against a warrant. A warrant shall be—

- (1) authorized by law;
- (2) signed by the Secretary; and
- (3) countersigned by the Comptroller General.

(b)(1) A disbursing official shall send to the Secretary with a warrant a certificate under section 3526 of this title, or a requisition for an advance. The certificate or requisition shall state the appropriation to which the payment is to be charged.

(2) The Secretary shall return the certificate or requisition to the Comptroller General with the date and amount endorsed on the certificate or requisition.

(c) A requisition for the payment of money on an audited account or for depositing money in the Treasury is not required.

(d) The Secretary and the Comptroller General shall charge to the appropriate appropriation in their books any money paid by a warrant.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 950.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3323(a)	31:44(1st sentence). 31:76(2d sentence words before 3d comma). 31:147(related to disbursement).	June 10, 1921, ch. 18, §304(1st par. 1st sentence), 42 Stat. 24. July 31, 1894, ch. 174, §11(2d, 3d sentences), 28 Stat. 209. R.S. §305(related to disbursement); July 31, 1894, ch. 174, §11(last sentence related to §305), 28 Stat. 209.
3323(b)	31:76(2d sentence words after 3d comma).	
3323(c)	31:76(3d sentence).	
3323(d)	31:44(1st sentence). 31:77.	R.S. §3675.

In the section, the words "Comptroller General" are substituted for "General Accounting Office" for consistency.

Subsection (a) is substituted for 31:76(2d sentence words before 3d comma) and 147(related to disbursement) to eliminate unnecessary words and for clarity and consistency.

In subsection (b), the word "Secretary" is substituted for "Treasurer" because of the source provisions restated in section 321 of the revised title.

In subsection (b)(1), the words "instead of being specified on the warrant" are omitted as surplus. The reference to "section 3526 of this title" is used because section 72, referred to in 31:76, has been omitted from the restatement superseded by 31:82i and 31:82i is restated in section 3526.

In subsection (c), the word "depositing" is substituted for "covering" for clarity and consistency.

§ 3324. Advances

(a) Except as provided in this section, a payment under a contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered.

(b) An advance of public money may be made only if it is authorized by—

- (1) a specific appropriation or other law; or
- (2) the President to be made to—

(A) a disbursing official if the President decides the advance is necessary to carry out—

- (i) the duties of the official promptly and faithfully; and
- (ii) an obligation of the Government; or

(B) an individual serving in the armed forces at a distant station if the President decides the advance is necessary to disburse regularly pay and allowances.

(c) Before the Secretary of the Treasury acts on a requisition for an advance, the Comptroller General shall act on the requisition under section 3522 of this title. The Comptroller General does not countersign a requisition for an advance.

(d) The head of an agency may pay in advance from appropriations available for the purpose—

(1) to the Secretary of the Army, charges for messages sent by the Secretary of the Army for the head of the agency, including charges for—

- (A) payment of tolls of commercial carriers;
- (B) leasing facilities for sending messages; and
- (C) installing and maintaining facilities for sending messages; and

(2) charges for a publication printed or recorded in any way for the auditory or visual use of the agency.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 950.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3324(a)	31:529(2d sentence).	R.S. §3648; Aug. 2, 1946, ch. 744, §11, 60 Stat. 809.
3324(b)	31:529(1st, 3d, last sentences).	
3324(c)	31:44(1st sentence).	June 10, 1921, ch. 18, §304(1st par. 1st sentence), 42 Stat. 24.
	31:76(1st, last sentences).	July 31, 1894, ch. 174, §11(1st, 4th sentences), 28 Stat. 209.
3324(d)	31:530a.	June 12, 1930, ch. 470, §1, 46 Stat. 580; July 20, 1961, Pub. L. 87-91, §1, 75 Stat. 211.
	31:530b.	June 12, 1930, ch. 470, 46 Stat. 580, §2; added Dec. 22, 1974, Pub. L. 93-534, 88 Stat. 1731.
	31:686-2.	Apr. 15, 1926, ch. 146, §101(proviso on p. 267), 44 Stat. 267.

In subsection (a), the words “Except as provided in this section” are added for clarity. The words “already provided” and “already delivered” are substituted for “rendered . . . delivered previously to such payment” for clarity and consistency.

In subsection (b), before clause (1), the words “in any case” and “It shall, however, be lawful under the special direction of” are omitted as surplus. In clause (2)(A)(i), the word “official” is substituted for “officer” for consistency in the revised title. The words “of the Government” are omitted as surplus. Clause (2)(A)(ii) is substituted for “the public engagements” for clarity. In clause (2)(B), the word “individual” is substituted for “persons” for consistency. The words “armed forces” are substituted for “military and naval service” for consistency with title 10. The words “and proper” are omitted as unnecessary. The words “disburse regularly pay and allowances” are substituted for “discharge of the pay and emoluments to which they may be entitled cannot be regularly effected” to eliminate unnecessary words, for clarity, and for consistency with title 37.

In subsection (c), the words “Comptroller General” are substituted for “General Accounting Office” for consistency.

In subsection (d), before clause (1), the words “On and after April 15, 1926” in 31:686-2 are omitted as executed.

The word “agency” is substituted for “department or establishment” because of section 101 of the revised title and for consistency. The words “may pay in advance from appropriations available for the purpose” are substituted for “may transfer in advance . . . such amounts as may be necessary to defray the expense of” for clarity and consistency. In clause (1), the words “Secretary of the Army” are substituted for “Signal Corps of the Army” because of 10:3012. The title of Secretary of War was changed to Secretary of the Army, and the Department of War was designated the Department of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). Clause (2) is substituted for 31:530a and 530b to eliminate unnecessary words. The words “or the municipal government of the District of Columbia” are omitted because of sections 441-445 and 736 of the Act of December 24, 1973 (Pub. L. 93-198, 87 Stat. 798, 823).

EXEMPTION OF FUNCTIONS

Functions authorized by Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of Title 22, Foreign Relations and Intercourse.

INTERNATIONAL REFUGEE ORGANIZATION

Funds available for expenditure without regard to this section, see section 289c of Title 22, Foreign Relations and Intercourse.

§ 3325. Vouchers

(a) A disbursing official in the executive branch of the United States Government shall—

(1) disburse money only as provided by a voucher certified by—

- (A) the head of the executive agency concerned; or
- (B) an officer or employee of the executive agency having written authorization from the head of the agency to certify vouchers;

(2) examine a voucher if necessary to decide if it is—

- (A) in proper form;
- (B) certified and approved; and
- (C) computed correctly on the facts certified; and

(3) except for the correctness of computations on a voucher or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title,¹ be held accountable for carrying out clauses (1) and (2) of this subsection.

(b) In addition to officers and employees referred to in subsection (a)(1)(B) of this section as having authorization to certify vouchers, members of the armed forces may certify vouchers when authorized, in writing, by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Homeland Security.

(c) On request, the Secretary of the Treasury may provide to the appropriate officer or employee of the United States Government a list of persons receiving periodic payments from the Government. When certified and in proper form, the list may be used as a voucher on which the Secretary may disburse money.

(d) The head of an executive agency or an officer or employee of an executive agency referred

¹ So in original.

to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identifying number of each person to whom payment may be made under the voucher. (Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 951; Pub. L. 104-106, div. A, title IX, §913(b), Feb. 10, 1996, 110 Stat. 411; Pub. L. 104-134, title III, §31001(g)(1)(B), (y), Apr. 26, 1996, 110 Stat. 1321-363, 1321-378; Pub. L. 104-201, div. A, title X, §1009(b), Sept. 23, 1996, 110 Stat. 2634; Pub. L. 109-241, title IX, §902(b)(2), July 11, 2006, 120 Stat. 566.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3325(a)	31:82b. 31:82f(related to disbursing officers).	Dec. 29, 1941, ch. 641, §§1, 4(related to §1), 55 Stat. 875, 876. Apr. 28, 1942, ch. 247, §301(1st par. proviso under heading "Bureau of Accounts" related to disbursing officers), 56 Stat. 244.
3325(b)	31:82e(related to 31:82b).	
3325(c)	31:82a.	May 14, 1937, ch. 180, §1(2d par. last proviso on p. 140), 50 Stat. 140.

In subsection (a), before clause (1), the words "Notwithstanding the provisions of section 82 of this title, and section 4 of Executive Order Numbered 6166, dated June 10, 1933" in 31:82b are omitted as unnecessary. In clause (1), the word "duly" is omitted as surplus. In clause (1)(A) and (B), the words "executive agency" are substituted for "department, establishment or agency concerned" because of section 102 of the revised title and for consistency. In clause (2)(C), the words "basis of the" are omitted as surplus. In clause (3), the words "for carrying out clauses (1) and (2) of this subsection" are substituted for "accordingly" for clarity.

In subsection (b), the words "under the jurisdiction" are omitted as surplus. The words "a military department of the Department of Defense" are substituted for "the Department of the Army, the Navy Department (including the Marine Corps)" for consistency with title 10. The words "and the Panama Canal" (subsequently changed to "the Canal Zone Government" by section 2(a)(1) of the Act of September 26, 1950 (ch. 1049, 64 Stat. 1038)) are omitted because of 22:ch. 51. The word "pay" is substituted for "salaries" for consistency in the revised title and with other titles of the United States Code.

In subsection (c), the words "On and after May 14, 1937" are omitted as executed. The words "Secretary of the Treasury" are substituted for "Division of Disbursement, Treasury Department" in section 1(last proviso of 2d par. on p. 140) of the Act of May 14, 1937, because of section 1(a) of Reorganization Plan No. III of 1940 (eff. June 30, 1940, 54 Stat. 1231) and section 321(c) of the revised title. The word "appropriate" is added for clarity. The words "officer or employee of the United States Government" are substituted for "administrative officers" for consistency in the revised title and with other titles of the United States Code. The words "addressographed or stenciled" and "administratively revised and" are omitted as surplus. The words "disburse public money" are substituted for "make payment" for consistency.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-241 substituted "Secretary of Homeland Security" for "Secretary of Transportation".

1996—Subsec. (a)(3). Pub. L. 104-134, §31001(g)(1)(B), inserted "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title," after "voucher".

Subsec. (b). Pub. L. 104-201 substituted "members of the armed forces may certify vouchers when authorized, in writing, by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation" for "members of the armed forces under the jurisdiction of the Secretary of Defense may certify vouchers when authorized, in writing, by the Secretary to do so".

Pub. L. 104-106 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Subsection (a) of this section does not apply to disbursements of a military department of the Department of Defense, except for disbursements for departmental pay and expenses in the District of Columbia."

Subsec. (d). Pub. L. 104-134, §31001(y), added subsec. (d).

§ 3326. Waiver of requirements for warrants and advances

(a) When the Secretary of the Treasury and the Comptroller General decide that, with sufficient safeguards, existing procedures may be changed to simplify, improve, and economize the control and accounting of public money, they may prescribe joint regulations for waiving any part of the requirements in effect on September 12, 1950, that—

(1) warrants be issued and countersigned for the receipt, retention, and disbursement of public money and trust funds; and

(2) amounts be requisitioned and advanced to accountable officials.

(b) Regulations of the Secretary and the Comptroller General may provide for the payment of vouchers by authorized disbursing officials by checks drawn on the general fund of the Treasury. However, the regulations shall provide for appropriate action (including suspension or withdrawal of authority to make payments) against a delinquent disbursing official for any reason related to the official's accounts.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 951.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3326(a)	31:66c(a).	Sept. 12, 1950, ch. 946, §115, 64 Stat. 837.
3326(b)	31:66c(b).	

In subsection (a), before clause (1), the words "in effect on September 12, 1950" are substituted for "existing" for clarity. In clause (2), the words "under each separate appropriation head or otherwise" are omitted as surplus.

In subsection (b), the word "official" is substituted for "officers" for consistency. The word "Treasury" is substituted for "Treasurer of the United States" because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). The words "in the rendition of their accounts or for other" and "under necessary circumstances" are omitted as surplus.

§ 3327. General authority to issue checks and other drafts

(a) The Secretary of the Treasury may issue a check or other draft on public money in the Treasury to pay an obligation of the United States Government. When the Secretary decides it is convenient to a public creditor and in the public interest, the Secretary may designate a

depository to issue a check or other draft on public money held by the depository to pay an obligation of the Government. As directed by the Secretary, each depository shall report to the Secretary on public money paid and received by the depository.

(b) The Secretary of the Treasury shall take such actions as are necessary to ensure that Social Security account numbers (including derivatives of such numbers) are not visible on or through unopened mailings of checks or other drafts described in subsection (a) of this section. (Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 952; Pub. L. 106-433, § 2, Nov. 6, 2000, 114 Stat. 1910.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3327	31:526.	R.S. §3644.

The words “Secretary of the Treasury” are substituted for “Treasurer” because of the source provisions restated in section 321(c) of the revised title. The words “may issue a check or other draft” are substituted for “shall be subject to the draft of” for consistency in the revised title. The words “public money” are substituted for “moneys” because section 10 of the Act of August 6, 1846 (ch. 90, 9 Stat. 61), from which section 3644 of the Revised Statutes is derived, used the term “public money”. The words “obligation of the United States Government” are substituted for “on the public account”, and the words “may designate a depository to issue a check or draft on public money held by the depository to pay an obligation of the Government” are substituted for “is authorized to draw upon any of the depositories” for clarity and consistency. The words “at such times and in such forms . . . shall be” are omitted as surplus. The words “United States Postal Service” and “Postmaster General” are omitted because of 39:410. The words “report to the Secretary on public money paid and received by the depository” are substituted for “so drawn upon shall make returns to the Treasury Department” for clarity and consistency.

AMENDMENTS

2000—Pub. L. 106-433 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2000 AMENDMENT AND TRANSITIONAL RULE

Pub. L. 106-433, § 3, Nov. 6, 2000, 114 Stat. 1910, provided that:

“(a) IN GENERAL.—The amendments made by this Act [amending this section] shall apply with respect to all mailings of checks or other drafts issued on or after the date which is 3 years after the date of the enactment of this Act [Nov. 6, 2000].

“(b) PHASE-IN OF AMENDMENTS.—Effective on the date of the enactment of this Act, the Secretary of the Treasury shall commence procedures to gradually implement the amendments made by this Act in advance of the effective date described in subsection (a). Not later than 1 year after the date of the enactment of this Act, and annually thereafter for each of the next 2 years, the Secretary shall transmit to each House of the Congress a report describing the manner and extent to which the requirements of the preceding sentence have been carried out.”

§ 3328. Paying checks and drafts

(a) TIME LIMIT ON TREASURY CHECKS.—

(1) IN GENERAL.—Except as provided in sections 3329 and 3330 of this title—

(A) the Secretary shall not be required to pay a Treasury check issued on or after the

effective date of this section unless it is negotiated to a financial institution within 12 months after the date on which the check was issued; and

(B) the Secretary shall not be required to pay a Treasury check issued before the effective date of this section unless it is negotiated to a financial institution within 12 months after such effective date.

(2) DEFERRAL PENDING SETTLEMENT.—Notwithstanding the time limitations imposed by paragraph (1), if the Secretary is on notice of a question of law or fact about whether a Treasury check is properly payable when the check is presented for payment, the Secretary may defer payment on such check until the question is settled.

(3) Nothing in this subsection shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(b)(1) If a check issued by a disbursing official and drawn on a designated depository is not paid by the last day of the fiscal year after the fiscal year in which the check was issued, the amount of the check is—

(A) withdrawn from the account with the depository; and

(B) deposited in the Treasury for credit to a consolidated account of the Treasury.

(2) A claim for the proceeds of an unpaid check under this subsection may be paid from a consolidated account by a check drawn on the Treasury.

(c) A limitation imposed on a claim against the United States Government under section 3702 of this title does not apply to an unpaid check drawn on the Treasury or a designated depository.

(d) The Secretary may prescribe regulations the Secretary decides are necessary to carry out subsections (a)–(c) of this section.

(e)(1) The Secretary shall prescribe regulations on—

(A) enforcing the speedy presentation of Government drafts;

(B) paying drafts, including the place of payment; and

(C) paying drafts if presentment is not made as required.

(2) Regulations prescribed under paragraph (1) of this subsection shall prevent, as far as may be practicable, Government drafts from being used or placed in circulation as paper currency or a medium of exchange.

(f) AUTHORITY TO DECLINE PAYMENT.—Nothing in this section limits the authority of the Secretary to decline payment of a Treasury check after first examination thereof at the Treasury.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 952; Pub. L. 100-86, title X, §1002, Aug. 10, 1987, 101 Stat. 658; Pub. L. 104-316, title I, §115(d), Oct. 19, 1996, 110 Stat. 3834.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3328(a)(1)	31:132(a).	July 11, 1947, ch. 222, §1, 61 Stat. 308; restated Aug. 28, 1957, Pub. L. 85-183, §1, 71 Stat. 464.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3328(a)(2)	31:134(less last 30 words before 1st proviso).	July 11, 1947, ch. 222, § 3, 61 Stat. 309; restated Aug. 28, 1957, Pub. L. 85-183, § 2, 71 Stat. 464.
3328(b)	31:132(b).	
3328(c)	31:132(c).	
3328(d)	31:134(last 30 words before 1st proviso).	
3328(e)	31:527	R.S. §3645.

In the section, the word "Treasury" is substituted for "Treasurer of the United States" because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280).

In subsections (a)(1) and (b), the words "Comptroller General" are substituted for "General Accounting Office" for consistency.

In subsections (a)(1) and (c), the words "heretofore or hereafter" are omitted as surplus.

In subsection (a)(1), the words "Except as provided in sections 3330 and 3331 of this title" are added for clarity. The words "including those drawn by wholly owned and mixed-ownership Government corporations" are omitted as surplus. The words "Secretary of the Treasury" are substituted for "Treasurer of the United States" after "for payment the" because of the source provisions restated in section 321(c) of the revised title. The words "doubtful", "for payment", and "of such check" are omitted as surplus.

In subsection (a)(2), before clause (A), the words "When the Secretary decides it is appropriate" are substituted for "at appropriate intervals" for clarity. In clauses (A) and (B), the words "on the books" are omitted as surplus. In clause (A), the words "drawn on the Treasury" are added for clarity and consistency. In clause (B), the words "from the accounts . . . for the payment of unpaid checks . . . of the Treasury" are omitted as surplus. The words "and to transfer to such consolidated account or accounts the balance of the special deposit account established pursuant to section 132 of this title", and the words "any unpaid checks heretofore payable from the special deposit account", are omitted as executed because the account was established under 31:132 as originally enacted in 1947 and then abolished by the 1957 amendment to that section. The text of 31:134(1st proviso) is omitted as superseded by section 448 of the Act of December 24, 1973 (Pub. L. 93-198, 87 Stat. 801). The text of 31:134(last proviso) is omitted as executed.

In subsection (b)(1), before clause (A), the words "issued by a disbursing official" are substituted for "drawn by authorized officers of the United States" for consistency. In clause (B), the words "or accounts on the books" are omitted as surplus.

Subsection (c) is substituted for 31:132(c) for consistency and to eliminate unnecessary words.

In subsection (d), the words "rules and" and "or proper" are omitted as surplus.

In subsection (e)(1), before clause (A), the word "prescribe" is substituted for "issue and publish" for consistency in the revised title and with other titles of the United States Code. In clause (B), the words "and to prescribe the time, according to the different distances of the depositaries from the seat of Government, within which all drafts upon them, respectively, shall be presented for payment" are omitted as superseded by subsection (a) of the revised section. Clause (C) is substituted for 31:527(words between semicolons) to eliminate unnecessary words.

In subsection (e)(2), the words "and directions" are omitted as surplus.

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a)(1), probably means the effective date of subsec. (a) of this section as amended by section 1002 of Pub. L.

100-86, which is effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations. See section 1006 of Pub. L. 100-86, set out as a note below.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104-316, §115(d)(1), substituted "until the question is settled" for "until the Comptroller General settles the question".

Subsec. (b)(2). Pub. L. 104-316, §115(d)(2), struck out "on settlement by the Comptroller General" after "the Treasury".

Subsec. (d). Pub. L. 104-316, §115(d)(3), substituted "The" for "With the approval of the Comptroller General, the".

1987—Subsec. (a). Pub. L. 100-86, §1002(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(1) Except as provided in sections 3329 and 3330 of this title, a check drawn on the Treasury may be paid at any time. However, if the Secretary of the Treasury is on notice of a question of law or fact about the check when the check is presented, the Secretary shall defer payment until the Comptroller General settles the question.

"(2) When the Secretary decides it is appropriate, the Secretary may transfer—

"(A) the amount of an unpaid check drawn on the Treasury from the account on which it was drawn to a consolidated account of the Treasury available for paying checks; and

"(B) an amount available, but not required, for paying checks drawn on the Treasury to the appropriate receipt account."

Subsec. (f). Pub. L. 100-86, §1002(2), added subsec. (f).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 1006 of Pub. L. 100-86 provided that: "The amendments made by sections 1002, 1003, and 1004 [enacting section 3334 of this title and amending this section and sections 3702 and 3712 of this title] shall become effective 6 months after the date of enactment of this Act [Aug. 10, 1987] or on such later date as the Secretary of the Treasury may prescribe in regulations."

REGULATIONS

Section 1005 of Pub. L. 100-86 provided that: "The Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary deems necessary to implement the amendments made by sections 1002, 1003, and 1004 [enacting section 3334 of this title and amending this section and sections 3702 and 3712 of this title], including the recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred."

§ 3329. Withholding checks to be sent to foreign countries

(a) The Secretary of the Treasury shall prohibit a check or warrant drawn on public money from being sent to a foreign country from the United States or from a territory or possession of the United States when the Secretary decides that postal, transportation, or banking facilities generally, or local conditions in the foreign country, do not reasonably ensure that the payee—

- (1) will receive the check or warrant; and
- (2) will be able to negotiate it for full value.

(b)(1) If a check or warrant is prohibited from being sent to a foreign country under subsection (a) of this section, the drawer shall hold the check or warrant until the end of the calendar quarter after the date of the check or warrant.

(2) The Secretary may release the check or warrant for delivery during the calendar quarter

after the date of the check or warrant if the Secretary decides that conditions have changed to ensure reasonably that the payee—

- (A) will receive the check or warrant; and
- (B) will be able to negotiate it for full value.

(3) Unless the Secretary otherwise directs, the drawer shall send at the end of the calendar quarter after the date of the check or warrant the—

- (A) withheld check or warrant to the drawee; and
- (B) report to the Secretary on—
 - (i) the name and address of the payee;
 - (ii) the date, number, and amount of the check or warrant; and
 - (iii) the account on which the check or warrant was drawn.

(4) The drawee shall transfer the amount of a withheld check or warrant from the account of the drawer to the special deposit account “Secretary of the Treasury, Proceeds of Withheld Foreign Checks”. The check or warrant shall be marked “Paid into Withheld Foreign Check Account”. The Secretary shall credit the accounts of the drawer and drawee.

(c) The Secretary may pay an amount deposited in the special account under subsection (b)(4) of this section with a check drawn on the account when—

- (1) a person claiming payment satisfies the Secretary of the right to the amount of the check or warrant (or satisfies the Secretary of Veterans Affairs if the claim represents a payment under laws administered by the Secretary of Veterans Affairs); and
- (2) the Secretary is reasonably ensured that the person—
 - (A) will receive the check or warrant; and
 - (B) will be able to negotiate it for full value.

(d) This section and section 3330 of this title—

- (1) apply to a check or warrant whose delivery may be withheld under Executive Order 8389;
- (2) do not affect a requirement for a license for delivering and paying a check in payment of a claim under subsection (c) of this section when a license is required by law to authorize delivery and payment; and
- (3) do not affect a check or warrant issued for the payment of pay or goods bought by the United States Government in a foreign country.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 953; Pub. L. 102-54, §13(l)(2), June 13, 1991, 105 Stat. 277; Pub. L. 104-316, title I, §115(e), Oct. 19, 1996, 110 Stat. 3834.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3329(a)	31:123(words before 1st proviso).	Oct. 9, 1940, ch. 796, §1(words before 1st proviso), 54 Stat. 1086; Dec. 2, 1942, ch. 659, 56 Stat. 1028.
3329(b)	31:124(1st par.).	Oct. 9, 1940, ch. 796, §§2(1st par.), 3(1st par.), 4, 6, 54 Stat. 1086, 1087.
3329(c)	31:125(1st par.).	
3329(d)	31:126. 31:128.	

In the section, the words “drawn on” are substituted for “drawn against” for consistency in the revised chapter. The word “actually” is omitted as surplus.

In subsection (a), before clause (1), the words “On and after October 9, 1940” are omitted as executed. The words “drawn on public money” are substituted for “drawn against funds of the United States, or any agency or instrumentality thereof” to eliminate unnecessary words and for consistency in the chapter. The words “and the Commonwealth of the Philippine Islands” in section 1 of the Act of October 9, 1940, are omitted because of Proclamation No. 2695 of July 4, 1946 (60 Stat. 1352). The words “to which such check or warrant is to be delivered” are omitted as surplus.

In subsection (b)(3)(A), the words “in accordance with the provisions of sections 123 to 128 of this title” and “thereof” are omitted as surplus.

In subsection (b)(3)(B), before subclause (i), the word “Secretary” is substituted for “Bureau of Accounts of the Treasury Department” because of the source provisions restated in section 321 of the revised title. The word “fully” is omitted as surplus.

In subsection (b)(4), the word “withheld” is substituted for “undelivered” for clarity. The words “with the Treasurer of the United States” and the words “of the United States” after “Comptroller General” are omitted as unnecessary.

In subsection (d)(1), the words “is now being, or . . . hereafter” and “as well as to all checks or warrants the delivery of which is now being withheld pursuant to administrative action, which administrative action is ratified and confirmed” in 31:126 are omitted as executed.

In subsection (d)(2), the words “do not affect a requirement for” are substituted for “nothing in sections 123 to 128 of this title shall be construed to dispense with the necessity of” in 31:126 to eliminate unnecessary words and because of the restatement. The words “obtaining . . . authorize” and “is now or hereafter” are omitted as surplus.

In subsection (d)(3), the words “does not affect” are substituted for “Nothing contained in sections 123 to 128 of this title shall be construed as affecting or applying to” in 31:128 to eliminate unnecessary words and because of the restatement. The word “pay” is substituted for “salaries or wages” for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104-316 substituted “The Secretary shall credit the accounts of the drawer and drawee.” for “After that time, the drawee shall send all withheld checks and warrants to the Comptroller General. The Comptroller General shall credit the accounts of the drawer and drawee.”

1991—Subsec. (c)(1). Pub. L. 102-54 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs” and “laws administered by the Secretary of Veterans Affairs” for “laws carried out by the Administrator”.

§ 3330. Payment of Department of Veterans Affairs checks for the benefit of individuals in foreign countries

(a)(1) A check is deemed to be issued for sending to a foreign country and subject to this section and section 3329 of this title if the check is—

- (A) drawn on public money;
- (B) for benefits under laws carried out by the Secretary of Veterans Affairs; and
- (C) to be sent to a person in the United States or a territory or possession of the United States, and the person is legally responsible for the care of an individual in a foreign country.

(2) The Secretary of Veterans Affairs shall notify the Secretary of the Treasury of each check described under paragraph (1) of this subsection.

(3) The Secretary of Veterans Affairs may exempt a check from paragraph (1) of this subsection if the application of paragraph (1) would reduce, discontinue, or deny benefits for the care of a dependent of an individual in a foreign country.

(b) When the amount of checks (representing payments to an individual under laws administered by the Secretary of Veterans Affairs) transferred under section 3329(b)(4) of this title equals \$1,000, the amounts of additional checks (except checks under contracts of insurance) payable to the individual under those laws shall be deposited in the Treasury as miscellaneous receipts. An amount transferred under section 3329(b)(4) or deposited as miscellaneous receipts is deemed to be payment for all purposes to the individual entitled to payment.

(c) If the payee of a check for pension, compensation, or emergency officers' retirement pay under laws administered by the Secretary of Veterans Affairs dies while the amount of the check is in the special deposit account, the amount is payable (subject to section 3329 of this title and this section) as follows:

(1) after the death of the veteran, to the surviving spouse, or, if there is no surviving spouse, to children of the veteran under 18 years of age at the time of the veteran's death.

(2) after the death of the surviving spouse, to children of the spouse under 18 years of age at the time of the spouse's death.

(3) after the death of an apportionee of a part of the veteran's pension, compensation, or emergency officers' retirement pay but before all of the apportioned amount is paid to the veteran, the apportioned amount not paid.

(4) in any other case, only to the extent necessary to reimburse a person for burial expenses.

(d)(1) A payment may be made under subsection (c) of this section only if a claim for payment is—

(A) filed with the Secretary of Veterans Affairs by the end of the first year after the date of the death of the individual entitled to payment; and

(B) completed by submitting the necessary evidence by the 6th month after the date the Secretary of Veterans Affairs requests the evidence.

(2) Payment shall include only amounts due at the time of death under ratings or decisions existing at the time of the death.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 954; Pub. L. 102-54, § 13(l)(3), (4)(A), June 13, 1991, 105 Stat. 277; Pub. L. 103-272, § 4(f)(1)(I), July 5, 1994, 108 Stat. 1362.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3330(a)	31:123(provisos).	Oct. 9, 1940, ch. 796, 54 Stat. 1086, § 1(provisos); added Dec. 2, 1942, ch. 659, 56 Stat. 1028.
3330(b)	31:124(last par.).	Oct. 9, 1940, ch. 796, § 2(last par.), 3(last par.), 54 Stat. 1086, 1087.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3330(c), (d).	31:125(last par.).	

In the section, the words “laws carried out” are substituted for “laws administered”, and the words “Administrator of Veterans Affairs” and “Administrator” are substituted for “Veterans Administration”, for consistency.

In subsection (a)(1), before clause (A), the word “issued” is substituted for “drawn” for clarity and consistency. Clause (A) is substituted for “drawn against funds of the United States” for consistency in the chapter. In clause (C), the words “guardian, curator, conservator, or other” are omitted as surplus. The words “legally responsible for” are substituted for “vested with” for clarity.

In subsection (b), the words “under section 3329(b)(4) of this title” are substituted for “to the special deposit account” for clarity and because of the restatement. The words “deposited in” are substituted for “covered into” for clarity and consistency in the revised title.

In subsection (c), before clause (1), the word “accruing” is omitted as surplus. In clauses (1) and (2), the words “surviving spouse” and “spouse” are substituted for “widow”, and the word “spouse’s” is substituted for “widow’s”, to conform to amendments made generally to title 38 by the Veterans Disability Compensation and Survivor Benefits Act of 1976 (Pub. L. 94-433, 90 Stat. 1374). In clause (1), the words “first to” are omitted as surplus. In clause (4), the word “only” is substituted for “no disbursement whatsoever of such pension, compensation, or emergency officers' retirement pay shall be made or allowed except so much” to eliminate unnecessary words.

In subsection (d)(1)(B), the word “completed” is substituted for “perfected” for clarity.

In subsection (d)(2), the words “and unpaid” are omitted as surplus.

AMENDMENTS

1994—Subsec. (d)(1)(B). Pub. L. 103-272 substituted “Secretary of Veterans Affairs” for “Administrator”.

1991—Pub. L. 102-54, § 13(l)(4)(A), substituted “Department of Veterans Affairs” for “Veterans Administration” in section catchline.

Subsec. (a)(1)(B). Pub. L. 102-54, § 13(l)(3)(A), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs”.

Subsec. (a)(2), (3). Pub. L. 102-54, § 13(l)(3)(B), substituted “Secretary of Veterans Affairs” for “Administrator”.

Subsecs. (b), (c). Pub. L. 102-54, § 13(l)(3)(C), substituted “laws administered by the Secretary of Veterans Affairs” for “laws carried out by the Administrator”.

Subsec. (d)(1)(A). Pub. L. 102-54, § 13(l)(3)(B), substituted “Secretary of Veterans Affairs” for “Administrator”.

§ 3331. Substitute checks

(a) In this section, “original check”—

(1) means an order for the payment of money—

(A) payable on demand;

(B) that does not bear interest;

(C) drawn by an authorized disbursing official or agent of the United States Government; and

(D) the amount of which is deposited with the Treasury or another account available for payment; and

(2) does not include coins and currency of the Government.

(b) When the Secretary of the Treasury is satisfied that an original check is lost, stolen, destroyed in any part, or is so defaced that the value to the owner or holder is impaired, the Secretary may issue a substitute check to the owner or holder of the original check. Except as provided in subsection (c) or (f) of this section, the substitute check is payable from the amount available to pay the original check.

(c) When the Secretary is satisfied that an original check drawn on a depository in a foreign country or a territory or possession of the United States is lost, stolen, destroyed in part, or is so defaced that its value to the owner or holder is impaired, the drawer of the original check (or another official designated by the Secretary with the approval of the head of the agency on whose behalf the original check was issued) may issue to the owner or holder of the check a substitute check. The drawer or official shall issue the substitute check by the last day of the fiscal year after the fiscal year in which the original check was issued—

- (1) using the current date; and
- (2) drawn on the account of the drawer of the original check or another account available for payment of the substitute.

(d) A substitute check issued under this section—

- (1) may be paid only if the original check has not been paid;
- (2) shall include information necessary to identify the original check;
- (3) that is drawn on the Treasury—
 - (A) is deemed to be an original check; and
 - (B) is paid under the same conditions as the original check; and
- (4) does not relieve a disbursing or certifying official from liability to the Government for payment resulting from erroneously issuing the original check.

(e) Before issuing a substitute check under this section, the Secretary may require the owner or holder of the original check to agree to indemnify the Government with security in the form and amount the Secretary decides is necessary.

(f) The Secretary may waive any provision of this section as may be necessary to ensure that claimants receive timely payments.

(g) Under conditions the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may delegate those duties and powers to an officer or employee of the agency.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 955; Pub. L. 97-452, §1(11), Jan. 12, 1983, 96 Stat. 2468; Pub. L. 104-134, title III, §31001(x)(2), Apr. 26, 1996, 110 Stat. 1321-377.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3331(a)	31:528(g).	R.S. §3646(a)-(c), (f), (g); Feb. 16, 1865, ch. 123, 23 Stat. 306; Mar. 23, 1906, ch. 1129, 34 Stat. 84; June 19, 1906, ch. 3434, 34 Stat. 301; May 27, 1908, ch. 206(par. beginning on p. 415 amending §§3646, 3647), 35 Stat. 415; Feb. 23, 1909, ch. 174, 35 Stat. 643; Mar. 21, 1916, ch. 52, 39 Stat. 37; July 8, 1937, ch. 444, §9, 50 Stat. 482; Aug. 10, 1939, ch. 665, §§5-7, 53 Stat. 1359; restated Dec. 3, 1945, ch. 515, §1, 59 Stat. 592; July 11, 1947, ch. 222, §4(c), (d)(related to §3646(c)), (e), (f), 61 Stat. 309; Aug. 28, 1957, Pub. L. 85-183, §§4, 5(a), (c), 71 Stat. 465; June 6, 1972, Pub. L. 92-310, §231(s), 86 Stat. 211; Sept. 22, 1978, Pub. L. 95-380, 92 Stat. 725.
3331(b)	31:528(a)(less last 28 words before proviso, proviso).	
3331(c)	31:528(c)(1st sentence 1st-158th words, 171st-195th words).	
3331(d)	31:528(a)(last 28 words before proviso, proviso), (c)(1st sentence 159th-170th words, 237th-last words, last sentence), (f).	
3331(e)	31:528(b), (c)(1st sentence 196th-236th words).	

In subsection (a), before clause (1), the words “The term . . . wherever used” are omitted as unnecessary. In clause (1), before subclause (A), the words “check, warrant, or other” are omitted as surplus. In subclause (C), the word “duly” is omitted as surplus. The words “disbursing official or agent” are substituted for “officer or agent” for consistency in the revised title. The words “any wholly owned or mixed-ownership Government corporation” are omitted as already being included in the restated source provisions and because of section 101 of the revised title. Therefore, the text is not meant to exclude employees of wholly owned Government corporations and mixed-ownership Government corporations. The words “the District of Columbia, or the District Unemployment Compensation Board” are omitted because of section 448 of the Act of December 24, 1973 (Pub. L. 93-198, 87 Stat. 801). The words “or by any entity owned or controlled by the United States” are omitted as unnecessary. In subclause (D), the words “and covered . . . or deposited with the Treasurer of the United States” are omitted as surplus. The words “or another account available for payment” are added for clarity and consistency in the revised section. In clause (2), the word “money” is omitted as being covered by “coins and currency”.

In subsections (b) and (c), the words “When the Secretary is satisfied” are substituted for “whenever it is clearly proved to the satisfaction of the Secretary” to eliminate unnecessary words. The words “mutilated or” are omitted as being covered by “defaced”.

In subsection (c), before clause (1), the words “Notwithstanding the provisions of subsections (a) and (b) of this section” are omitted as unnecessary. The words “including the Panama Canal Zone” are omitted because of the Panama Canal Treaty of 1977. The words “official designated” are substituted for “officer or employee of the United States as may be authorized” for consistency in the revised title and with other titles of the United States Code. The word “agency” is substituted for “department or agency” because of section 101 of the revised title and for consistency. In clause (2), the words “drawn on” are substituted for “drawn against” for consistency in the revised chapter.

In subsection (d)(3), before subclause (A), the word “Treasury” is substituted for “Treasurer of the United States” because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280).

In subsection (d)(4), the word “official” is substituted for “officer” for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the words “surety or” are omitted as surplus. The words “the receipt and approval by the Secretary of the Treasury of” are omitted because of the restatement.

1983 ACT

This restates, as 31:3331(f), section 3646(h) of the Revised Statutes that was inadvertently omitted from the codification of title 31 by the Act of Sept. 13, 1982 (Pub. L. 97-258, 96 Stat. 1084). It provides authority for the Secretary of the Treasury to delegate duties and powers related to issuing substitute checks to heads of other agencies.

The words “terms and” are omitted as surplus. The words “duties and powers” are substituted for “power, authority, or discretion” for consistency in the revised title and with other titles of the United States Code. The words “in whole or in part” are omitted as surplus. The words “to such individuals as he may designate within the Treasury Department” are omitted because of 31:321(b)(2). The word “agency” is coextensive with and substituted for “other department or agency of the Government or of any Federal Reserve bank” because of 31:101. The words “terms and conditions” are omitted as surplus.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-134, § 31001(x)(2)(A), substituted “subsection (c) or (f)” for “subsection (c)”.

Subsecs. (f), (g). Pub. L. 104-134, § 31001(x)(2)(B), (C), added subsec. (f) and redesignated former subsec. (f) as (g).

1983—Subsec. (f). Pub. L. 97-452 added subsec. (f).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2(i) of Pub. L. 97-452 provided that: “The amendments made by section 1(11), (14), (19), (22), (24), (26), and (27) [amending this section and sections 3702, 5103, 5154, 6501, 9101, 9107, and 9108 of this title] are effective as of September 13, 1982.”

§ 3332. Required direct deposit

(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this

section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120(a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payment after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1996 shall be made by electronic funds transfer.

(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent.

(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120(a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

- (i) for individuals or classes of individuals for whom compliance imposes a hardship;
- (ii) for classifications or types of checks; or
- (iii) in other circumstances as may be necessary.

(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—

- (1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and
- (2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments through each institution or agent designated under paragraph (1).

(h) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.

(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

(2) Regulations under this subsection shall ensure that individuals required under subsection

(g) to have an account at a financial institution because of the application of subsection (f)(1)—

(A) will have access to such an account at a reasonable cost; and

(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

(j) For purposes of this section—

(1) The term “electronic funds transfer” means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

(2) The term “Federal agency” means—

(A) an agency (as defined in section 101 of this title); and

(B) a Government corporation (as defined in section 103 of title 5).

(3) The term “Federal payments” includes—

(A) Federal wage, salary, and retirement payments;

(B) vendor and expense reimbursement payments; and

(C) benefit payments.

Such term shall not include any payment under the Internal Revenue Code of 1986.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 955; Pub. L. 98-369, div. B, title VIII, §2814, July 18, 1984, 98 Stat. 1207; Pub. L. 103-356, title IV, §402(a), Oct. 13, 1994, 108 Stat. 3412; Pub. L. 104-134, title III, §31001(x)(1), Apr. 26, 1996, 110 Stat. 1321-376.)

words “and the municipal government of the District of Columbia” are omitted because of section 448 of the Act of December 24, 1973 (Pub. L. 93-198, 87 Stat. 801). The text of section 1(b)(1st sentence) and (c)(1st sentence) of the Act of July 19, 1975, is omitted as executed. In clause (2), the words “savings bank” are omitted as surplus.

In subsections (b)–(f), the words “officer or employee” are substituted for “employee” for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (d), the word “official” is substituted for “officer” for consistency in the revised title and with other titles of the Code. The words “issue a check payable to” are substituted for “make the payment . . . by sending to . . . a check that is drawn in favor of the organization” for clarity and consistency and to eliminate unnecessary words.

In subsection (b), before clause (1), the words “Notwithstanding subsection (a) of this section or any other provision of law” are omitted as unnecessary. The words “may designate in writing not more than 3 financial organizations to which a payment of pay of the officer or employee shall be sent and the amount to be sent to each organization” are substituted for “upon the written request of an employee of the agency to whom a payment for wages or salary is to be made . . . in the form of one, two, or three checks (the number of checks . . . if more than one . . . designated by such employee” for clarity, consistency in the revised title and with other titles of the Code, and to eliminate unnecessary words.

In subsection (c), the words “(except for a financial organization designated by an officer or employee of either House of Congress)” are substituted for section 1(b)(last sentence) and (c)(last sentence) of the Act of July 19, 1975 (Pub. L. 94-57, 89 Stat. 265), because of the restatement. The words “to which such check is sent” are omitted because of the restatement.

In subsection (d), the words “to whom a payment is to be made” are omitted as surplus. The words “upon the written request of such employee” are omitted as unnecessary. The words “accompanied by a schedule” are added for clarity.

In subsection (e), the word “payment” is substituted for “acquittance” for clarity and consistency.

Subsection (f) is substituted for 31:492(d)(1st-50th words) to eliminate unnecessary words.

In subsection (g), the words “rules and” in section 1(b) and (c) of the Act of July 19, 1975 (Pub. L. 94-57, 89 Stat. 265), are omitted as surplus.

REFERENCES IN TEXT

The date of the enactment of the Debt Collection Improvement Act of 1996, referred to in subsec. (e)(1), is the date of enactment of section 31001 of Pub. L. 104-134, which was approved Apr. 26, 1996.

The Internal Revenue Code of 1986, referred to in subsec. (j)(3), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsecs. (e) to (j). Pub. L. 104-134 added subsecs. (e) to (g), redesignated former subsec. (e) as (h), and added subsecs. (i) and (j).

1994—Pub. L. 103-356 substituted “Required direct deposit” for “Checks payable to financial organizations designated by Government officers and employees” as section catchline and amended text generally. Prior to amendment, section authorized agency officers and employees to designate not more than 3 financial organizations to which a payment of pay or other recurring payments was to be sent without charge and required the agency head to authorize issuance of checks payable to those financial organizations in the designated amounts.

1984—Subsec. (b). Pub. L. 98-369, §2814(a), inserted “without charge” after “shall be sent”.

Subsecs. (c) to (g). Pub. L. 98-369, §2814(b), struck out subsec. (c) which related to reimbursement of an agen-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3332(a)	31:492(b)(3).	R.S. §3620(b), (c); added Aug. 28, 1965, Pub. L. 89-145, §1(2), 79 Stat. 582; restated June 29, 1968, Pub. L. 90-365, 82 Stat. 274; July 19, 1975, Pub. L. 94-57, §1(a), 89 Stat. 265.
	31:492(note).	July 19, 1975, Pub. L. 94-57, §1(b)(1st sentence), (c)(1st sentence), 89 Stat. 265.
3332(b)	31:492(b)(1)(1st sentence words before 1st comma, words between 2d comma and proviso).	
3332(c)	31:492(b)(1)(proviso, last sentence), 31:492(note).	July 19, 1975, Pub. L. 94-57, 89 Stat. 265, §1(b)(2d, last sentences), (c)(2d, last sentences); added Dec. 18, 1975, Pub. L. 94-157, §109, 89 Stat. 331.
3332(d)	31:492(b)(2)(less 32d-43d words).	
3332(e)	31:492(c).	
3332(f)	31:492(d)(1st-50th words).	R.S. §3620(d); added Aug. 7, 1972, Pub. L. 92-366, 86 Stat. 506.
3332(g)	31:492(b)(1)(1st sentence words between 1st and 2d commas), (2)(32d-43d words), (d)(51st-last words), 31:492(note).	

In subsection (a), the definition of “agency” is omitted because of section 101 of the revised title. The

cy for issuing additional checks, and redesignated subsecs. (d) to (g) as (e) to (f), respectively.

SAVINGS PROVISION

Any waiver in effect on Oct. 5, 1999, under subsec. (f)(2)(A)(i) of this section to remain in effect until otherwise provided by the Secretary of Defense under section 2786 of Title 10, Armed Forces, see section 1008(a)(3) of Pub. L. 106-65, set out as a note under section 2786 of Title 10.

ELECTRONIC PAY STUBS

Pub. L. 110-423, §1, Oct. 15, 2008, 122 Stat. 4818, provided that:

“(a) IN GENERAL.—The Office of Personnel Management shall take such measures as may be appropriate to ensure that all employees who receive their pay by electronic funds transfer shall be given the option of receiving their pay stubs electronically.

“(b) DEFINITIONS.—For purposes of this section—

“(1) the term ‘electronic funds transfer’ has the meaning given such term by section 3332 of title 31, United States Code;

“(2) the term ‘employee’ means an individual employed in or under an Executive agency; and

“(3) the term ‘Executive agency’ has the meaning given such term by section 105 of title 5, United States Code.”

§ 3333. Relief for payments made without negligence

(a)(1) The Secretary of the Treasury is not liable for a payment made by the Secretary or depository in due course and without negligence, of—

(A) a check, draft, or warrant drawn on the Treasury or the depository;

(B) an electronic payment issued by the Treasury or the depository; and

(C) a debt obligation guaranteed or assumed by the United States Government.

(2) The Comptroller General shall credit the accounts of the Treasury or the depository for the payment.

(3) The amount of the relief and the amount of any relief granted to an official or agent of the Department of the Treasury under 31 U.S.C. 3527, shall be charged to the Check Forgery Insurance Fund (31 U.S.C. 3343). A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.

(b) This section does not relieve another individual from civil or criminal liability for a check, draft, warrant, or debt obligation of the Government.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 956; Pub. L. 108-447, div. H, title II, § 220(a), Dec. 8, 2004, 118 Stat. 3242; Pub. L. 110-161, div. D, title I, § 119, Dec. 26, 2007, 121 Stat. 1979.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3333(a)	31:156(less proviso).	Aug. 4, 1947, ch. 455, §3, 61 Stat. 730.
3333(b)	31:156(proviso).	

In subsection (a)(1), before clause (A), the words “Secretary of the Treasury” are substituted for “Treasurer” before “is not liable” because of the source provisions restated in section 321(c) of the revised title. The word “depository” is substituted for

“upon the Treasurer of the United States through any Federal Reserve Bank” for consistency in the revised title. The words “Whenever . . . heretofore has been or hereafter” and “or on behalf of” are omitted as surplus. In clause (A), the word “Treasury” is substituted for “Treasurer of the United States” after “drawn upon the” because of the source provisions restated in section 321 of the revised title and Department of the Treasury Order 229 of January 14, 1974 (39 F.R. 2280). In clause (B), the words “public . . . of the United States, including any obligation of any type whatever, the payment of which is” are omitted as surplus.

In subsection (a)(2), the words “of the United States” are omitted as unnecessary. The words “of the Treasury or the depository” are substituted for “Treasurer’s” because of the restatement.

In subsection (b), the words “another individual” are substituted for “any person, other than the Treasurer of the United States” to eliminate unnecessary words. The words “now existing or which may hereafter exist” are omitted as unnecessary.

AMENDMENTS

2007—Subsec. (a)(3). Pub. L. 110-161 added par. (3) and struck out former par. (3) which read as follows: “The amount of the relief shall be charged to the Check Forgery Insurance Fund (31 U.S.C. 3343). A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.”

2004—Subsec. (a)(1). Pub. L. 108-447, § 220(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follow: “The Secretary of the Treasury is not liable for a payment made by the Secretary or depository in due course and without negligence, of a—

“(A) check, draft, or warrant drawn on the Treasury or the depository; and

“(B) debt obligation guaranteed or assumed by the United States Government.”

Subsec. (a)(3). Pub. L. 108-447, § 220(a)(2), added par. (3).

§ 3334. Cancellation and proceeds distribution of Treasury checks

(a) IN GENERAL.—(1) The Secretary shall provide monthly to each agency that authorizes the issuance of Treasury checks a list of those checks issued for such agency on or after such effective date that have not been paid and have become more than 12 months old during the preceding month, beginning with the fourteenth month following the effective date of this section.

(2) Such checks shall be canceled by the Secretary and the proceeds thereof shall be returned to the agency concerned and credited to the appropriation or fund account initially charged for the payment.

(b) CHECKS ISSUED BEFORE EFFECTIVE DATE.—

(1) Not later than 18 months after the effective date of this section, the Secretary shall identify and cancel all Treasury checks issued before such effective date that have not been paid in accordance with section 3328 of this title.

(2) The proceeds from checks canceled pursuant to paragraph (1) shall be applied to eliminate the balances in accounts that represent uncollectible accounts receivable and other costs associated with the payment of checks and check claims by the Department of the Treasury on behalf of all payment certifying agencies. Any remaining proceeds shall be deposited to the miscellaneous receipts of the Treasury.

(c) NO EFFECT ON UNDERLYING OBLIGATION.—Nothing in this section shall be construed to af-

fect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.

(Added Pub. L. 100-86, title X, §1003, Aug. 10, 1987, 101 Stat. 658.)

REFERENCES IN TEXT

Such effective date, and the effective date of this section, referred to in subsecs. (a)(1) and (b)(1), is 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations. See Effective Date note below.

EFFECTIVE DATE

Section effective 6 months after Aug. 10, 1987, or on such later date as the Secretary of the Treasury may prescribe in regulations, see section 1006 of Pub. L. 100-86, set out as an Effective Date of 1987 Amendment note under section 3328 of this title.

REGULATIONS

For provision permitting Secretary of the Treasury to prescribe rules, regulations, and procedures as necessary to implement this section, including recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred, see section 1005 of Pub. L. 100-86, set out as a note under section 3328 of this title.

§ 3335. Timely disbursement of Federal funds

(a) Each head of an executive agency (other than the Tennessee Valley Authority) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary.

(b) The Secretary may collect from any executive agency which does not comply with subsection (a) a charge in an amount the Secretary determines to be the cost to the general fund of the Treasury caused by such noncompliance.

(c) The amounts of charges collected from an executive agency under this section shall be deposited in the Treasury and credited as miscellaneous receipts.

(d) Any charge assessed by the Secretary under this section, to the maximum extent practicable—

- (1) shall be paid out of appropriations available for executive agency operations; and
(2) shall not be paid from amounts available for funding programs of an executive agency.

(Added Pub. L. 101-453, §4(a), Oct. 24, 1990, 104 Stat. 1058.)

REGULATIONS

Section 4(c) of Pub. L. 101-453, as amended by Pub. L. 102-589, §2(1), Nov. 10, 1992, 106 Stat. 5133, provided that: "The Secretary of the Treasury shall prescribe regulations under section 3335 of title 31, United States Code, as added by subsection (a), to ensure the full implementation of that section."

§ 3336. Electronic benefit transfer pilot

- (a) The Congress finds that:
(1) Electronic benefit transfer (EBT) is a safe, reliable, and economical way to provide benefit payments to individuals who do not have an account at a financial institution.
(2) The designation of financial institutions as financial agents of the Federal Government

for EBT is an appropriate and reasonable use of the Secretary's authority to designate financial agents.

(3) A joint federal-state¹ EBT system offers convenience and economies of scale for those states¹ (and their citizens) that wish to deliver¹ state-administered benefits on a single card by entering into a partnership with the federal¹ government.¹

(4) The Secretary's designation of a financial agent to deliver EBT is a specialized service not available through ordinary business channels and may be offered to the states¹ pursuant to section 6501 et seq. of this title.

(b) The Secretary shall continue to carry out the existing EBT pilot to disburse benefit payments electronically to recipients who do not have an account at a financial institution, which shall include the designation of one or more financial institution² as a financial agent of the Government, and the offering to the participating states¹ of the opportunity to contract with the financial agent selected by the Secretary, as described in the Invitation for Expressions of Interest to Acquire EBT Services for the Southern Alliance of States dated March 9, 1995, as amended as of June 30, 1995, July 7, 1995, and August 1, 1995.

(c) The selection and designation of financial agents, the design of the pilot program, and any other matter associated with or related to the EBT pilot described in subsection (b) shall not be subject to judicial review.

(Added Pub. L. 104-208, div. A, title I, §101(f) [title VI, §664], Sept. 30, 1996, 110 Stat. 3009-314, 3009-385.)

SUBCHAPTER III—MISCELLANEOUS

§ 3341. Sale of Government warrants, checks, drafts, and obligations

(a) A disbursing official of the United States Government may sell a Government warrant, check, draft, or obligation not the property of the official at a premium, or dispose of the proceeds of the warrant, check, draft, or obligation, only if the official deposits the premium and the proceeds in the Treasury or with a depository for the credit of the Government.

(b) A disbursing official violating subsection (a) of this section shall be dismissed immediately.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 956.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows for 3341(a) and 3341(b).

In subsection (a), the words "disbursing official" are substituted for "officer" for clarity and consistency in the revised title. The words "either directly or indirectly" and "or dispose of to any person" are omitted as surplus. The words "Government warrant, check, draft, or obligation" are substituted for "Treasury

¹ So in original. Probably should be capitalized.
² So in original. Probably should be "institutions".