CHAPTER 3. LEGAL AND REGULATORY REQUIREMENTS

Section 1.0 Major Legislation Affecting Accounting and Financial Management

.01 Governing Legislation

a. Chief Financial Officers Act of 1990 (P.L. 101-576) (31 U.S.C. Sec. 501, et. seq.)

This Act established a Deputy Director for Management of the United States within the Office of Management and Budget (OMB) and a CFO in each executive Department. This Act also established an Office of Federal Financial Management (OFFM) headed by a Controller within the OMB. The legislation requires the CFO to develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls which provides for the following:

(i) complete, reliable, consistent, and timely information prepared on a uniform basis and responsive to the financial information needs of the agency management;

(ii) the development and reporting of cost information;

(iii) the integration of accounting and budgeting information; and

(iv) the systematic measurement of performance.

The legislation requires an annual five (5) year financial management plan from each agency. The legislation also requires that agencies submit audited financial statements on each revolving fund, trust fund, and substantial commercial function. The statements will be audited according to generally accepted government auditing standards by the Inspector General or by an independent external auditor.

The Secretary of Commerce has designated the Assistant Secretary for Administration as the Chief Financial Officer.

b. The Government Performance and Results Act of 1993 (P.L. 103-62) (5 U.S.C. Sec. 306) (31 U.S.C. Sec. 1115-1119) (39 U.S.C. 2801-2805)

The purpose of the Act is to improve the confidence of the American people in the capability of the Federal Government, by systematically holding Federal agencies accountable for achieving program results. The Act requires agencies to initiate program performance reforms with a series of pilot projects in setting program goals, measuring program performance against those goals, and reporting publicly on their progress. Under the Act agencies must improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction. The Act requires that Federal managers improve service delivery, by requiring that they plan to meet program objectives and by giving them information about program results and service quality. Under the Act, Federal managers must provide to congressional decision makers objective information on the relative effectiveness and efficiency of Federal programs and spending.

The Act establishes requirements for strategic plans, annual performance plans and reports, managerial accountability and flexibility, pilot projects and training.

c. The Government Management Reform Act of 1994 (P.L. 103-356) (31 U.S.C. Sec. 101, et. seq.)

The Act requires that the head of each executive agency submit audited financial statements to the Director of the Office of Management and Budget each fiscal year. The financial statements must reflect the results of operations and cover all accounts and associated activity of each office, bureau, and activity of the agency. The Act also requires annual Government wide financial statements that contain the results of operations of the executive branch.

d. Federal Financial Management Improvement Act of 1996 (P.L. 104-208) (31 U.S.C. Sec. 801. et. seq.)

This Act codifies certain financial management policies and audit procedures established by the Executive Branch. The legislation requires that each agency implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. In addition, auditors of an agency's financial statements are required to report on compliance with the basic requirements of the Act, and for agency heads and agency management to correct deficiencies within a certain period of time.

e. Budget and Accounting Procedures Act of 1950, as amended, (31 U.S.C. Secs 3511-3515, 3521)

This Act directs the Comptroller General of the United States to prescribe the principles, standards, and related requirements for accounting to be observed by executive agencies after consulting with the Secretary of the Treasury and the President. Pursuant to the Act, the head of each executive agency has the responsibility for establishing and maintaining adequate systems of accounting and internal control, and preparing audited financial statements of agency revolving and trust funds and other activities which involve substantial commercial functions. The use of accrual accounting, cost-based budgeting, consistent classification, simplifications of allotment structure, and adequate control of property is required to establish and maintain adequate systems of accounting and internal control. Furthermore, accrual accounting enhances the ability of agencies to execute cost-based budgeting.

f. Budget and Accounting Act of 1921, as amended, (P.L. 67-13)(31 U.S.C. Secs. 701 et seq.,1101 et seq.)

This Act established the Bureau of the Budget, now named the Office of Management and Budget (OMB), to assist the President in preparing a single, consolidated budget proposal to Congress. Although it has been amended numerous times, this statute provides the legal basis for the presidential budget, prescribes much of its content, and defines the roles of the President and the agencies in the process. This Act also assigns responsibilities for government accounting, auditing, and financial reporting to improve evaluations of Federal Government programs and activities by better identifying sources of funding and how the funding was applied.

.02 Budget Control

a. The Anti-Deficiency Act (31 U.S.C. Sec 1341, 1342, 1349-1351, 1511) (see OMB Circular A-11, sec. 145)

The portion of the Budget and Accounting Procedures Act of 1950, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, which prohibits obligating or expending more than authorized ceilings, including funds to be sequestered.

b. The Supplemental Appropriations Act of 1955 (31 U.S.C. Sec. 1501)

Provides that an obligation is only enforceable when it is in writing; that the purpose is to avoid inappropriate spending based on oral obligations; and that the balance of an appropriation limited to a definite period is available only for payment of expenses incurred during that period.

c. Closing Accounts (31 U.S.C. Secs. 1551-1557)

Prescribes procedures to be followed in closing appropriation accounts available for definite periods of time. It establishes the availability of appropriation accounts to pay obligations. The law addresses the audit, control, and reporting requirements that remain applicable to that account after the end of the period of availability for obligation.

.03 Business-like Activities and Practices

a. The Economy Act of 1932 (31 U.S.C. Sec. 1535) prescribes the rules for the purchase of supplies, equipment, or service by one Federal Government bureau or department from another Federal Government bureau or department.

b. Title V of the Independent Office Appropriations Act of 1952 (31 U.S.C. Sec. 9701) authorizes Federal agencies to assess charges or fees for Government services and for the sale or use of Government property or resources. The Act requires that fees charged shall be fair and equitable, taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts. Any amount collected shall be paid into the Treasury as miscellaneous receipts.

c. Special Studies and Work (P.L 91- 412)(15 U.S.C. Secs. 1525, 1526, and 1527) authorizes Commerce to make special studies on matters within its authority. Special compilations, lists, bulletins, or reports may be prepared upon payment of the actual or estimated cost of the special work. The law further provides that Commerce may engage in joint projects, or perform services, on matters of mutual interest with non-profit, research, or public organizations and agencies provided that cost are equitably apportioned.

d. Prompt Payment Act of 1982 (P.L. 97-452)(31 U.S.C. Secs. 3901 et seq.) calls for payments of bills not later than due dates based on the receipt of proper invoices and satisfactory performance, as well as payment of any interest penalties. The Act also encourages the taking of cash discounts when determined to be economically beneficial.

e. Federal Claims Collection Act of 1966 (31 U.S.C. Secs 3701, 3702, 3716, 3719) (Note: also the Code of Federal Regulations, Title 4, Chapter II, Parts 101-105) prescribes procedures for the follow-up of claims against those who owe the Federal Government money, including amounts owed as a result of audit follow-ups.

f. Cash Management Improvement Act of 1990 (P.L. 101-453) as amended by the Cash Management Improvement Act of 1992 (P.L. 102-589) was passed to improve the transfer of Federal funds between the Federal Government and the States, territories, and the District of Columbia. The main objective is to minimize the time of transfer of funds and the payout for program purpose.

g. Federal Credit Reform Act of 1990 (P.L. 101-508, as amended by 2 U.S.C. Sec. 661, et seq.) enacted for the purposes of measuring more accurately the costs of Federal credit programs. The Act places the cost of credit programs on a budgetary basis, requires calculation of subsidy elements of credit programs, encourages more cost effective delivery of benefits to beneficiaries, and seeks to improve allocation of limited financial resources among credit and other spending programs.

h. Debt Collection Improvement Act of 1996 (P. L. 104-134)(31 U.S.C. Secs. 3332) Enhances debt collection Government-wide, mandates the use of electronic funds Transfer (EFT) for Federal payments, allows Federal Reserve Bank Treasury Check Offset, and provides funding for the Check Forgery Insurance Fund. This Law provides that any non-tax debt or claim owed to the United States that has been delinquent for more than 180 days shall be turned over to the Secretary of Treasury for appropriate action.

NOTE: While the following OMB circular is not a piece of legislation, it provides guidance in the above category:

Office of Management and Budget Circular A-129, “Policies for Federal Credit Programs and Non-tax Receivables” (Sec. V) mandates an increase in the efficiency of Government-wide efforts to collect debts owed the United States and provides additional procedures for the collection of debts owed the United States.

.04 Internal Controls

a. Federal Managers' Financial Integrity Act of 1982 (P.L.97-255) (31 U.S.C. Secs. 1105, 1106, 1108, 1113, 3512) amends Section 113 of the Accounting and Auditing Act of 1950 as to requirements for the performance of reviews of the systems of internal controls and the annual issuances of a statement (report) as to the adequacy of the agency's internal controls to the President and Congress. This Act also amends the Budget and Accounting Act of 1921.

b. Federal Property and Administrative Services Act of 1949 (40 U.S.C. Sec. 483) (40 U.S.C. Sec. 483) requires each executive agency to maintain adequate inventory controls and accountability systems for the property under its control.

As noted above, the Reference section of the Handbook provides copies of the particular statute, or where appropriate, pertinent sections of the statute dealing with accounting requirements. Although the Office of Financial Management will attempt to keep the material on accounting-related statutes current, these statutes are continuously amended. Bureau accounting and finance officials are therefore encouraged to reference the most recent Act through their legal counsel's office or the Departmental Law Library.

Section 2.0 Regulatory Requirements; Generally Accepted Accounting Principles

Legislation affecting accounting and financial management generally assigns oversight responsibilities, in whole or in part, to one or more central agencies, e.g., GAO, OMB, Treasury, etc. In addition to oversight responsibilities, these agencies must frequently publish directives under the statute to implement the requirements of the legislation. These directives, in the form of specific regulatory requirements, are cited under the appropriate "authority" section of each chapter of the Handbook. They are also listed separately at the end of the Handbook in the Bibliography section.

In October 1991, the Comptroller General, the Secretary of the Treasury, and the Director of OMB agreed to establish the Federal Accounting Standards Advisory Board (FASAB). FASAB's purpose is to consider and recommend accounting principles, standards, and requirements to GAO, Treasury, and OMB. The OFFM will decide upon new principles, standards, and requirements after considering FASAB's recommendations. The Comptroller General and the Director of OMB will each publish the principles, standards, and requirements.

The hierarchy of generally accepted accounting principles, set forth by FASAB and hereafter referred to as the GAAP hierarchy, governs what constitutes GAAP for federal reporting entities. It lists the priority sequence of pronouncements that a federal reporting entity should look to for accounting and financial reporting authoritative guidance. The sources of accounting principles that are generally accepted are categorized in descending order of authority as follows:

a. Officially established accounting principles consist of FASAB Statements of Federal Financial Accounting Standards (Standards) and Interpretations. FASAB Standards and Interpretations will be periodically incorporated in a publication by the FASAB.

b. FASAB Technical Bulletins and, if specifically made applicable to federal reporting entities by the AICPA and cleared[3] by the FASAB, AICPA Industry Audit and Accounting Guides.[4]

c. Technical Releases of the Accounting and Auditing Policy Committee of the FASAB.

d. Implementation guides published by the FASAB staff, as well as practices that are widely recognized and prevalent in the federal government.

3 For purposes of interpreting category (b), the word *cleared* means that the FASAB does not object to the pronouncement's issuance.

4 Such pronouncements specifically made applicable to federal reporting entities are presumed to have been cleared by the FASAB, unless the pronouncement indicates otherwise.

Although Title 2 of GAO's Policy and Procedures Manual for the Guidance of Federal Agencies is not specifically mentioned in the above hierarchy, it is included in the fourth level of authority, as "practices widely recognized and prevalent in the federal government." Moreover, the Handbook was based substantially upon Title 2. Accordingly, Title 2 is considered a proper reference for accounting principles and standards where it does not conflict with guidance provided for in the first three levels of the accounting hierarchy.

Section 3.0 Bureau Evaluations of Material or Significant Possible or Actual Unusual Accounting Transactions

Bureaus are required to evaluate material or significant possible or actual unusual accounting transactions (e.g. a possible or actual accrued receivable/revenue or accrued payable/expense or asset, a possible, anticipated, or actual transfer, a possible, anticipated, or actual budgetary resource or reduction of budgetary resources, a possible or actual contingency), regardless of whether the item has been apportioned or not apportioned on the SF 132, *Apportionment and Reapportionment Schedule*, and research if a) a proprietary accounting transaction(s) should be recorded; b) a budgetary accounting transaction should be recorded; and c) if yes to either a) or b), the appropriate accounting transactions that should be recorded and when (month/year) the accounting transactions should be recorded.

For these material or significant possible or actual unusual accounting transactions, the bureau's evaluation is required to include consultation with a) the bureau's CFO or equivalent, of both the underlying bureau and that bureau's accounting service provider, if applicable, or his or her designee(s); and b) the Department's Office of Financial Management. As appropriate, consultations should also include c) other bureau or Departmental offices; d) the U.S. Department of the Treasury, the Office of Management and Budget, and/or the Federal Accounting Standards Advisory Board; e) any other federal agencies; and f) any other relevant or applicable sources.