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 Chief Financial Officer (CFO) of the United States within the Office of Management and Budget (OMB) and a CFO in each executive Department. 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 (I)complete, reliable, consistent, and timely information which are prepared on a uniform basis and is 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 (see Reference A).

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. Secs 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, and 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 an audited financial statement to the Director of the Office of Management and Budget each fiscal year. The financial statement 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 an annual Governmentwide financial statement that contains 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 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 (see Reference S).

e. Budget and Accounting Procedures Act of 1950, as amended, (31 U.S.C. Secs. 3511-3515, 3521 (64 Stat. 832))

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 Director of OMB. 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 (see Reference B).

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

This Act is considered the major legislation governing accounting in the Federal Government. The Act is also the enabling and descriptive legislation dealing with GAO and its general powers and duties (see Reference C).

.02 Budget Control

a. The Anti-Deficiency Act (31 U.S.C. Sec. 1341 (31 U.S.C. Secs. 1341, 1342, 1349-1351, 1511 et seq.))--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 (see Reference D).

b. The Supplemental Appropriations Act of 1955 (31 U.S.C. Secs. 1108, 1501-1502) 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 (see Reference E).

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 (see Reference F). Also see Glossary for detailed definitions on expired accounts.

.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.(see Reference G).

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 (see Reference H).

Special Studies and Work (P.L. 91-412 (15 U.S.C. Secs. 1525, 1526, and 1527)). The law 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 (see Reference I).

c. Prompt Payment Act of 1982 (31 U.S.C. Secs. 3901 et seq. (P.L. 97-452)) calls for payment 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 (see Reference J).

d Federal Claims Collection Act of 1966 (31 U.S.C. Secs. 3701, 3711, 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 (see Reference L).

e Debt Collection Act of 1982 (P.L. 97-365 (31 U.S.C. Secs. 3302, 3701, 3711, 3716-3719)) 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 (see Reference K).

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 (see Reference M).

h. Debt Collection Improvement Act of 1996 (P. L. 104-134 (31 U.S.C. Secs. 3701, 3322, 3716, et seq.)) 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.

.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 (see Reference N).

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

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

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 (the JFMIP principals) 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 JFMIP principals 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 following hierarchy shall constitute generally accepted accounting principles for the Federal Government (FED GAAP):

1. Individual standards agreed to by the Director of OMB, the Comptroller General, and the Secretary of the Treasury and published by OMB and the General Accounting Office.

2. Interpretations related to Statements of Federal Financial Accounting Standards (SFFASs) issued by OMB in accordance with the procedures outlined in OMB Circular A-134, "Financial Accounting Principles and Standards."

3. Requirements contained in OMB's Form and Content Bulletin in effect for the period covered by the financial statements.

4. Accounting principles published by other authoritative standard-setting bodies and other authoritative sources (a) in the absence of other guidance in the first three parts of this hierarchy, and (b) if the use of such accounting principles improves the meaningfulness of the financial statements.

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 an "other authoritative standard-setting body." 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.