

GOVERNMENT-WIDE GENERAL PROVISIONS

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2004 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at \$8,100 except station wagons for which the maximum shall be \$9,100: Provided, That these limits may be exceeded by not to exceed \$3,700 for police-type vehicles, and by not to exceed \$4,000 for special heavy-duty vehicles: Provided further, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: Provided further, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101-549 over the cost of comparable conventionally fueled vehicles.

SEC. 604. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

SEC. 605. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: Provided further, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than \$4,000 or imprisoned for not more than 1 year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment

of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 606. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 607. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 608. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: Provided, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 609. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 610. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 611. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2004, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by the comparable section for the previous fiscal year until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2004, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section and

(2) during the period consisting of the remainder of fiscal year 2004, in an amount that exceeds, as a result of a wage survey

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adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2004 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2004 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2003, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2003, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 2003.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 612. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of \$5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is transmitted to the Committees on Appropriations. For the purposes of this section, the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 613. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without advance notice transmitted to the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 614. Notwithstanding section 1346 of title 31, United States Code, or section 609 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the inter-agency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 615. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office

of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Department of Homeland Security, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 616. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for the current fiscal year shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 617. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 618. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 619. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee's home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 620. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 621. Notwithstanding 31 U.S.C. 1346 and section 609 of this Act, funds made available for the current fiscal year by this or any other Act to any department or agency, which is a member of the Joint Financial Management Improvement Program (JFMIP), shall be available to finance an appropriate share of JFMIP administrative costs, as determined by the JFMIP, but not to exceed a total of \$800,000 including the salary of the Executive Director and staff support.

SEC. 622. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

SEC. 623. Notwithstanding section 1346 of title 31, United States Code, or section 609 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the inter-agency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: Provided, That the Office of Management and Budget shall provide a report describing the budget of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science; and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

SEC. 624. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds, the Catalog of Federal Domestic Assistance Number, as applicable, and the amount provided. This provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

SEC. 625. Subsection (f) of section 403 of Public Law 103-356 (31 U.S.C. 501 note) is amended by striking "October 1, 2001" and inserting "October 1, 2004".

SEC. 626. (a) PROHIBITION OF FEDERAL AGENCY MONITORING OF PERSONAL INFORMATION ON USE OF INTERNET.—None of the funds made available in this or any other Act may be used by any Federal agency—

(1) to collect, review, or create any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any Federal Government Internet site of the agency; or

(2) to enter into any agreement with a third party (including another government agency) to collect, review, or obtain any aggregate list, derived from any means, that includes the collection of any personally identifiable information relating to an individual's access to or use of any nongovernmental Internet site.

(b) EXCEPTIONS.—The limitations established in subsection (a) shall not apply to—

(1) any record of aggregate data that does not identify particular persons;

(2) any voluntary submission of personally identifiable information;

(3) any action taken for law enforcement, regulatory, or supervisory purposes, in accordance with applicable law; or

(4) any action described in subsection (a)(1) that is a system security action taken by the operator of an Internet site and is necessarily incident to the rendition of the Internet site services or to the protection of the rights or property of the provider of the Internet site.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term "regulatory" means agency actions to implement, interpret or enforce authorities provided in law.

(2) The term "supervisory" means examinations of the agency's supervised institutions, including assessing safety and soundness, overall financial condition, management practices and policies and compliance with applicable standards as provided in law.

SEC. 627. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care's HMO; and

(B) OSF Health Plans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

SEC. 628. The Congress of the United States recognizes the United States Anti-Doping Agency (USADA) as the official anti-doping agency

for Olympic, Pan American, and Paralympic sport in the United States.

SEC. 629. Not later than 6 months after the date of enactment of this Act, the Inspector General of each applicable department or agency shall submit to the Committee on Appropriations a report detailing what policies and procedures are in place for each department or agency to give first priority to the location of new offices and other facilities in rural areas, as directed by the Rural Development Act of 1972.

SEC. 630. ESTABLISHMENT OF AGENCY FEES FOR FECA ADMINISTRATION.

(a) AMENDMENTS TO EMPLOYEES' COMPENSATION FUND.—Section 8147 of title 5 of the United States Code is amended by—

(1) amending subsections (a) and (b) to read as follows:

"(a)(1) There is in the Treasury of the United States the Employees' Compensation Fund, which consists of sums that Congress, from time to time, may appropriate for or transfer to it, and amounts that otherwise accrue to it under this subchapter or other statute.

"(2) The Fund is available without time limit for the payment of compensation and other benefits and expenses authorized by this subchapter or any extension or application thereof, except expenses of the Employees' Compensation Appeals Board established under section 8149 of this subchapter and costs of administration not specified in this paragraph, or as otherwise provided by this subchapter or other statute. For purposes of this paragraph, the "cost of administration" shall refer to expenses for management, operation, and legal support of the program under this subchapter (other than for legal services performed by or for the Secretary under sections 8131 and 8132 of this title), and the amounts determined pursuant to subsection (d) of this section.

"(3) There is an Administrative Expenses Account within the Fund, which consists of funds deposited pursuant to subsection (c)(3) of this section. The funds in the Account shall remain available until expended. There are hereby authorized to be appropriated out of the Administrative Expenses Account for each fiscal year such sums as may be necessary for the payment of the cost of administration referred to in paragraph (2), except the amounts determined pursuant to subsection (d) of this section.

"(4) The Secretary of Labor shall submit annually to the Office of Management and Budget for review and approval estimates of—

"(A) appropriations necessary for the maintenance of the Fund,

"(B) an estimate of the amounts needed for the Administrative Expenses Account, and

"(C) an estimate of the amounts to be collected pursuant to subsection (d) of this subsection and to be used by the Secretary for the cost of administration as authorized in the appropriate annual appropriations Act.

"(b)(1) Before August 15 of each year, the Secretary shall furnish to the Secretary of the Treasury a statement for each agency and instrumentality of the United States having an employee who is or may be entitled to compensation benefits under this subchapter, or any extension or application thereof, showing—

"(A) the total cost of benefits and other payments made from the Employees' Compensation Fund during the preceding July 1 through June 30 expense period on account of the injury or death of employees or individuals under the jurisdiction of the agency or instrumentality; and

"(B)(i) a surcharge on the amount reflected in subparagraph (A), as determined by the Secretary of Labor, reflecting each agency's portion of the estimate of the total amount needed for the Administrative Expenses Account for the fiscal year beginning in the next calendar year, or

"(ii) the amount owed pursuant to subsection (d) of this section.

"(2) Upon submission of the statement required under paragraph (1), the Secretary shall furnish to each applicable agency a copy of such statement reflecting the amount owed by the agency.

"(3) If an agency or instrumentality (or part or function thereof) is transferred to another agency or instrumentality, the cost of compensation benefits and other expenses paid from the Fund on account of the injury or death of employees of the transferred agency or instrumentality (or part or function) shall be included in costs of the receiving agency or instrumentality."

(2) redesignating subsection (c) as subsection (d);

(3) adding the following new subsection (c):

"(c)(1)(A) Except as provided in subparagraph (B), each agency and instrumentality shall include in its annual budget estimates for the fiscal year beginning in the next calendar year, a request for an

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appropriation in an amount equal to the costs and the surcharge specified in the statement provided under subsection (b) of this section.

“(B) An agency or instrumentality not dependent on an annual appropriation shall deposit in the Treasury to the credit of the Fund a sum equal to its costs and surcharge, if applicable, from available funds during the first fifteen days of October following the furnishing of the statement required under subsection (b)(2) of this section.

“(2) The Secretary of the Treasury shall credit to the Fund the sums specified in the statements furnished pursuant to subsection (b)(1)(A) and (B)(i) when such funds become available.

“(3) The Secretary of the Treasury shall transfer to the credit of the Administrative Expenses Account therein, the amounts specified in subsection (b)(1)(B)(i).”; and

(4) adding the following new subsection (e) after subsection (d) (as redesignated):

“(e)(1) Upon determination of the Secretary that funds available in the Administrative Expenses Account are less than the limitation established on the amount to be expended from such account by the applicable appropriation for the current year, and that amounts in addition to the amounts currently in the Administrative Expenses Account are needed, the Secretary shall request, and the Secretary of the Treasury shall advance from the Fund to the Administrative Expenses Account, such sums as may be necessary, not to exceed the amount of the limitation established under such appropriation.

“(2)(A) Sums advanced pursuant to paragraph (1) shall be repaid from the Administrative Expenses Account without interest. Except as provided in subparagraph (B), such sums shall be paid in the second quarter of the fiscal year following that in which the advance was made.

“(B)(i) Repayment may be deferred for any amount that the Secretary determines would reduce the account below the limitation established for the fiscal year in which repayment is due as provided in subparagraph (A).

“(ii) Deferred payments shall be made in the second quarter of the first fiscal year subsequent to that provided in subparagraph (A) to the extent that the Secretary determines that such payment would not reduce the account below the limitation established for that subsequent year.”.

(b) TRANSITION PROVISION.—

(1)(A) Upon enactment of this section, the Secretary of Labor shall furnish to the Secretary of the Treasury a supplemental statement for each agency and instrumentality of the United States having an employee who is or may be entitled to compensation benefits under this subchapter, or any extension or application thereof, showing each agency's portion, as determined by the Secretary of Labor, of the amount transferred from the Administrative Expenses Account to the Employment Standards Administration, “Salaries and Expenses” account for fiscal year 2004.

(B) Upon submission of the statement required under subparagraph (A), the Secretary of Labor shall furnish to each applicable agency a copy of such statement reflecting the amount owed by the agency.

(C)(i) Except as provided in clause (ii), the Secretary of the Treasury shall transfer the sums specified in the statements furnished pursuant to subparagraph (A) to the credit of the Administrative Expenses Account when such funds become available.

(ii) An agency or instrumentality not dependent on an annual appropriation shall deposit a sum equal to the amount of its supplemental statement, if applicable, in the Treasury to the credit of the Administrative Expenses Account from available funds.

(2) During fiscal year 2004, the cost of administration, as defined in 5 U.S.C. 8147(a), shall not include any legal services.

SEC. 631. Funds provided for personnel benefits by this or any other appropriations Act shall be available to pay the cost of accruals for pension and post-retirement health benefits as specified in the Managerial Flexibility Act of 2001 (S. 1612, 107th Congress, as introduced in the Senate on November 1, 2001), contingent upon enactment of such legislation.

SEC. 632. Not to exceed 5 percent of any appropriation made under any heading in this or any other Act may be transferred by the President to any other account, to be merged with and available for the same time and the same purposes as the account to which transferred: Provided, That no account to which amounts are transferred shall be increased by more than 50 percent by any such transfers: Provided further, That any such transfer shall become effective 15 days after notice thereof is transmitted to the Committees on Appropriations of the House and Senate.

SEC. 633. Each Executive department and agency shall evaluate the creditworthiness of an individual before issuing the individual a government purchase charge card or government travel charge card. The department or agency may not issue a government purchase charge card or government travel charge card to an individual that either lacks a credit history or is found to have an unsatisfactory credit history as a result of this evaluation: Provided, That this restriction shall not preclude issuance of a restricted-use charge, debit, or stored value card made in accordance with agency procedures to (a) an individual with an unsatisfactory credit history where such card is used to pay travel expenses and the agency determines there is no suitable alternative payment mechanism available before issuing the card, or (b) an individual who lacks a credit history. Each Executive department and agency shall establish guidelines and procedures for disciplinary actions to be taken against agency personnel for improper, fraudulent, or abusive use of government charge cards, which shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or agency or with applicable standards of conduct. Disciplinary actions may include, but are not limited to, the review of the security clearance of the individual involved and the modification or revocation of such security clearance in light of the review.

SEC. 634. Notwithstanding section 1346 of title 31, United States Code, or section 609 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the inter-agency funding of the National Oceanographic Partnership Program Office, authorized by 10 U.S.C. 7902, and the Coastal America program, which benefit multiple Federal departments, agencies, or entities.

SEC. 635. From funds made available in this or any other Act under the headings, “The White House,” “Office of Management and Budget,” “Office of National Drug Control Policy,” “Special Assistance to the President and the Official Residence of the Vice President,” “Council on Environmental Quality and Office of Environmental Quality,” “Office of Science and Technology Policy,” and “Office of the United States Trade Representative,” the Director of the Office of Management and Budget (or such other officer as the President may designate in writing), may, fifteen days after giving notice to the Committees on Appropriations of the Senate and the House of Representatives, transfer not to exceed ten percent of any such appropriation to any other such appropriation, to be merged with and available for the same time and for the same purposes as the appropriation to which transferred: Provided, That the amount of an appropriation shall not be increased by more than fifty percent by such transfers: Provided further, That no amount shall be transferred from an appropriation under the heading, “Special Assistance to the President and the Official Residence of the Vice President,” without the approval of the Vice President.

SEC. 636. HUMAN CAPITAL PERFORMANCE FUND.—(a) There is hereby established the Human Capital Performance Fund, to be administered by the Office of Personnel Management for the purpose described in subsection (b). An agency shall submit a plan as described in subsection (d) to be eligible for consideration by the Office for an allocation under this section. Ninety percent of amounts appropriated to the Fund may be allocated by the Office to the agencies on a pro rata basis. An allocation shall be made only upon approval by the Office of an agency's plan. The remainder of the amounts available under this section shall be allocated to agencies at the discretion of the Office.

(b) The Office may authorize an agency to provide targeted pay increases to individual employees based on performance. In addition, if an agency demonstrates in its plan a critical staffing need or other factors that affect the agency's performance, the Office may authorize targeted pay increases.

(c) The Office shall issue such regulations as it determines to be necessary to implement this section, including the administration of the Fund. The Office's regulations shall include criteria governing—

(1) agency plans under subsection (d);

(2) the allocation of monies from the Fund to agencies;

(3) the nature, extent, duration, and adjustment of payments to individual employees under this section; and

(4) the circumstances under which funds may be allocated by the Office to an agency in amounts below or in excess of the agency's pro rata share.

(d) To be eligible for consideration by the Office for an allocation under this section, an agency shall—

(1) submit a plan, subject to review and approval by the Office;

(2) upon approval, receive an allocation of funding from the Office;
 (3) make payments to individual employees in accordance with the agency's approved plan; and

(4) provide such information to the Office regarding payments made and use of funds received under this section as the Office may specify.

(e) Any payment to an employee under this section shall be part of the employee's basic pay for the purposes of subchapter III of chapter 83, and chapters 84 and 87 of title 5, United States Code, and for such other purposes (other than chapter 75 of that title) as the Office shall determine by regulation.

(f) "Agency" means an Executive agency under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(g) AUTHORIZATION OF APPROPRIATIONS.—Such sums as may be necessary are authorized to be appropriated to the Human Capital Performance Fund for fiscal year 2004 and thereafter.

SEC. 637. SENIOR EXECUTIVE SERVICE PAY AND PERFORMANCE.—

(a) Chapter 53 of title 5, United States Code, is amended—

(1) in section 5304(g)—

(A) in paragraph (2)(A) by striking "subparagraphs (A)–(E)" and inserting "subparagraphs (A), (D)–(E)"; and

(B) by adding at the end a new paragraph (3) to read as follows:

"(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(B)–(C).";

(2)(A) by amending section 5382 to read as follows:

"§ 5382. Establishment of rates of pay for the Senior Executive Service

"Subject to regulations prescribed by the Office of Personnel Management, there shall be established a range of rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates within the range based on individual performance, contribution to the agency's performance, or both. The lowest rate of the range shall not be less than the minimum rate of basic pay payable under section 5376, and the highest rate shall not exceed the rate for level III of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373."; and

(B) in section 5383—

(i) in subsection (a) by striking "which of the rates established under section 5382 of this title" and inserting "which of the rates within the range established under section 5382"; and

(ii) in subsection (c) by striking "for any pay adjustment under section 5382 of this title" and inserting "as provided in regulations prescribed by the Office under section 5385".

(b) The amendments made by subsection (a)(2) shall not result in a reduction in the rate of basic pay for any senior executive during the first year after the effective date of this section.

