

EXHIBIT 2

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TITLE 28--JUDICIARY AND JUDICIAL PROCEDURE

PART IV--JURISDICTION AND VENUE

CHAPTER 91--UNITED STATES COURT OF FEDERAL CLAIMS

Sec. 1491. Claims against United States generally; actions
involving Tennessee Valley Authority

(a) (1) The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

(2) To provide an entire remedy and to complete the relief afforded by the judgment, the court may, as an incident of and collateral to any such judgment, issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records, and such orders may be issued to any appropriate official of the United States. In any case within its jurisdiction, the court shall have the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just. The Court of Federal Claims shall have jurisdiction to render judgment upon any claim by or against, or dispute with, a contractor arising under section 10(a)(1) of the Contract Disputes Act of 1978, including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 6 of that Act.

(b) (1) Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract or any alleged violation of statute or regulation in connection with a procurement or a proposed procurement. Both the United States Court of Federal Claims and the district courts of the United States shall have jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

\1\ So in original. Probably should be ``United''.

(2) To afford relief in such an action, the courts may award any relief that the court considers proper, including declaratory and injunctive relief except that any monetary relief shall be limited to bid preparation and proposal costs.

(3) In exercising jurisdiction under this subsection, the courts shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

(4) In any action under this subsection, the courts shall review the agency's decision pursuant to the standards set forth in section 706 of title 5.

(c) Nothing herein shall be construed to give the United States Court of Federal Claims jurisdiction of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action against, or founded on conduct of, the Tennessee Valley Authority, or to amend or modify the provisions of the Tennessee Valley Authority Act of 1933 with respect to actions by or against the Authority.

(June 25, 1948, ch. 646, 62 Stat. 940; July 28, 1953, ch. 253, Sec. 7, 67 Stat. 226; Sept. 3, 1954, ch. 1263, Sec. 44(a), (b), 68 Stat. 1241; Pub. L. 91-350, Sec. 1(b), July 23, 1970, 84 Stat. 449; Pub. L. 92-415, Sec. 1, Aug. 29, 1972, 86 Stat. 652; Pub. L. 95-563, Sec. 14(i), Nov. 1, 1978, 92 Stat. 2391; Pub. L. 96-417, title V, Sec. 509, Oct. 10, 1980, 94 Stat. 1743; Pub. L. 97-164, title I, Sec. 133(a), Apr. 2, 1982, 96 Stat. 39; Pub. L. 102-572, title IX, Secs. 902(a), 907(b)(1), Oct. 29, 1992, 106 Stat. 4516, 4519; Pub. L. 104-320, Sec. 12(a), Oct. 19, 1996, 110 Stat. 3874.)

Historical and Revision Notes

Based on title 28, U.S.C., 1940 ed., Sec. 250(1) (Mar. 3, 1911, ch. 231; Sec. 145, 36 Stat. 1136).

District courts are given concurrent jurisdiction of certain claims against the United States under section 1346 of this title. (See also reviser's note under that section and section 1621 of this title relating to jurisdiction of the Tax Court.)

The proviso in section 250(1) of title 28, U.S.C., 1940 ed., relating to claims growing out of the Civil War, commonly known as "war claims," and other claims which had been reported adversely before March 3, 1887 by any court, department, or commission authorized to determine them, were omitted as obsolete.

The exception in section 250(1) of title 28, U.S.C., 1940 ed., as to pension claims appears in section 1501 of this title.

Words "in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty, if the United States were suable" were omitted as unnecessary since the Court of Claims manifestly, under this section will determine whether a petition against the United States states a cause of action. In any event, the Court of Claims has no admiralty jurisdiction, but the Suits in Admiralty Act, sections 741-752 of title 46, U.S.C., 1940 ed., Shipping, vests exclusive jurisdiction over suits in admiralty against the United States in the district courts. *Sanday & Co. v. U.S.*, 1932, 76 Ct.Cl. 370.

For additional provisions respecting jurisdiction of the court of claims in war contract settlement cases see section 114b of Title 41, U.S.C., 1940 ed., Public Contracts.

Changes were made in phraseology.

References in Text

Sections 6 and 10(a)(1) of the Contract Disputes Act of 1978, referred to in subsec. (a)(2), are classified to sections 605 and 609(a)(1), respectively, of Title 41, Public Contracts.