

(July 1, 1944, ch. 373, title XXIII, §2354, formerly §2351, as added Pub. L. 100-607, title II, §201(4), Nov. 4, 1988, 102 Stat. 3076; renumbered §2354 and amended Pub. L. 103-43, title XVIII, §1801(a)(2), (b), June 10, 1993, 107 Stat. 192, 196; Pub. L. 109-482, title I, §104(b)(2)(D), Jan. 15, 2007, 120 Stat. 3693.)

#### CODIFICATION

In subsec. (a)(5)(C), “section 8141 of title 40” substituted for “the Act of March 3, 1877 (40 U.S.C. 34)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (a)(6), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes (41 U.S.C. 5)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

2007—Subsecs. (b), (c). Pub. L. 109-482 redesignated subsec. (c) as (b) and struck out former subsec. (b). Subsec. (b) text read as follows: “The Director of the Office shall each fiscal year prepare and submit to the Secretary, for inclusion in the comprehensive report required in section 300cc(a) of this title, a report—

“(1) describing and evaluating the progress made in such fiscal year in research, treatment, and training with respect to acquired immune deficiency syndrome conducted or supported by the Institutes;

“(2) summarizing and analyzing expenditures made in such fiscal year for activities with respect to acquired immune deficiency syndrome conducted or supported by the National Institutes of Health; and

“(3) containing such recommendations as the Director considers appropriate.”

1993—Pub. L. 103-43, §1801(b)(1), substituted “Additional” for “Establishment of” in section catchline.

Subsec. (a). Pub. L. 103-43, §1801(b)(2)(A), in introductory provisions substituted “AIDS research, the Director of the Office” for “research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health”.

Subsec. (a)(1). Pub. L. 103-43, §1801(b)(2)(B), redesignated par. (3) as (1) and struck out former par. (1) which read as follows:

“(A) shall establish an office to be known as the Office of AIDS Research, which Office shall be headed by a Director appointed by the Director of the National Institutes of Health; and

“(B) shall provide administrative support and support services to the Director of such Office;”

Subsec. (a)(2). Pub. L. 103-43, §1801(b)(2)(B), (E), redesignated par. (4) as (2), substituted “AIDS research” for “research relating to acquired immune deficiency syndrome”, and struck out former par. (2) which read as follows: “shall coordinate activities relating to acquired immune deficiency syndrome conducted by the national research institutes and the agencies of the National Institutes of Health;”

Subsec. (a)(3). Pub. L. 103-43, §1801(b)(2)(B), (C), (E), redesignated par. (5) as (3), struck out “, in consultation with the advisory council for the appropriate national research institute of the National Institutes of Health,” after “may” in introductory provisions, and substituted “AIDS research” for “research relating to acquired immune deficiency syndrome” in subpar. (A). Former par. (3) redesignated (1).

Subsec. (a)(4). Pub. L. 103-43, §1801(b)(2)(B), (E), redesignated par. (6) as (4) and substituted “AIDS research” for “research relating to acquired immune deficiency syndrome”. Former par. (4) redesignated (2).

Subsec. (a)(5). Pub. L. 103-43, §1801(b)(2)(B), (D), redesignated par. (7) as (5), in subpar. (A) struck out “, in consultation with such advisory council,” after “may” and substituted “Director of the Office determines” for

“Director of the National Institutes of Health determines”, and in subpars. (B) and (C) struck out “, in consultation with such advisory council,” after “may”. Former par. (5) redesignated (3).

Subsec. (a)(6) to (8). Pub. L. 103-43, §1801(b)(2)(B), redesignated pars. (6) to (8) as (4) to (6), respectively.

Subsec. (b). Pub. L. 103-43, §1801(b)(3), substituted “The Director of the Office shall” for “The Director of the National Institutes of Health, acting through the Director of the Office of AIDS Research, shall”.

Subsec. (c). Pub. L. 103-43, §1801(b)(4), substituted “the Director of the Office shall” for “the Director of the National Institutes of Health shall”.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 109-482 applicable only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years, see section 109 of Pub. L. 109-482, set out as a note under section 281 of this title.

#### SUBPART II—EMERGENCY DISCRETIONARY FUND

### § 300cc-43. Emergency Discretionary Fund

#### (a) In general

##### (1) Establishment

There is established a fund consisting of such amounts as may be appropriated under subsection (g) of this section. Subject to the provisions of this section, the Director of the Office, after consultation with the advisory council established under section 300cc-40b of this title, may expend amounts in the Fund for the purpose of conducting and supporting such AIDS activities, including projects of AIDS research, as may be authorized in this chapter for the National Institutes of Health.

##### (2) Preconditions to use of Fund

Amounts in the Fund may be expended only if—

(A) the Director identifies the particular set of AIDS activities for which such amounts are to be expended;

(B) the set of activities so identified constitutes either a new project or additional AIDS activities for an existing project;

(C) the Director of the Office has made a determination that there is a significant need for such set of activities; and

(D) as of June 30 of the fiscal year preceding the fiscal year in which the determination is made, such need was not provided for in any appropriations Act passed by the House of Representatives to make appropriations for the Departments of Labor, Health and Human Services (including the National Institutes of Health), Education, and related agencies for the fiscal year in which the determination is made.

##### (3) Two-year use of Fund for project involved

In the case of an identified set of AIDS activities, obligations of amounts in the Fund may not be made for such set of activities after the expiration of the 2-year period beginning on the date on which the initial obligation of such amounts is made for such set.

#### (b) Peer review

With respect to an identified set of AIDS activities carried out with amounts in the Fund, this section may not be construed as waiving applicable requirements for peer review.

**(c) Limitations on use of Fund****(1) Construction of facilities**

Amounts in the Fund may not be used for the construction, renovation, or relocation of facilities, or for the acquisition of land.

**(2) Congressional disapproval of projects**

(A) Amounts in the Fund may not be expended for the fiscal year involved for an identified set of AIDS activities, or a category of AIDS activities, for which—

(i)(I) amounts were made available in an appropriations Act for the preceding fiscal year; and

(II) amounts are not made available in any appropriations Act for the fiscal year involved; or

(ii) amounts are by law prohibited from being expended.

(B) A determination under subparagraph (A)(i) of whether amounts have been made available in appropriations Acts for a fiscal year shall be made without regard to whether such Acts make available amounts for the Fund.

**(3) Investment of Fund amounts**

Amounts in the Fund may not be invested.

**(d) Applicability of limitation regarding number of employees**

The purposes for which amounts in the Fund may be expended include the employment of individuals necessary to carry out identified sets of AIDS activities approved under subsection (a) of this section. Any individual employed under the preceding sentence may not be included in any determination of the number of full-time equivalent employees for the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after June 10, 1993.

**(e) Definitions**

For purposes of this section:

(1) The term “Fund” means the fund established in subsection (a) of this section.

(2) The term “identified set of AIDS activities” means a particular set of AIDS activities identified under subsection (a)(2)(A) of this section.

**(f) Funding****(1) Authorization of appropriations**

For the purpose of providing amounts for the Fund, there is authorized to be appropriated \$100,000,000 for each of the fiscal years 1994 through 1996.

**(2) Availability**

Amounts appropriated for the Fund are available until expended.

(July 1, 1944, ch. 373, title XXIII, §2356, as added Pub. L. 103-43, title XVIII, §1802, June 10, 1993, 107 Stat. 196; amended Pub. L. 109-482, title I, §104(b)(2)(E), Jan. 15, 2007, 120 Stat. 3693.)

## AMENDMENTS

2007—Subsecs. (e) to (g). Pub. L. 109-482 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and

struck out heading and text of former subsec. (e). Text read as follows: “Not later than February 1 of each fiscal year, the Director of the Office shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report on the identified sets of AIDS activities carried out during the preceding fiscal year with amounts in the Fund. The report shall provide a description of each such set of activities and an explanation of the reasons underlying the use of the Fund for the set.”

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 109-482 applicable only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years, see section 109 of Pub. L. 109-482, set out as a note under section 281 of this title.

## SUBPART III—GENERAL PROVISIONS

**§ 300cc-45. General provisions regarding Office****(a) Administrative support for Office**

The Secretary, acting through the Director of the National Institutes of Health, shall provide administrative support and support services to the Director of the Office and shall ensure that such support takes maximum advantage of existing administrative structures at the agencies of the National Institutes of Health.

**(b) Evaluation**

Not later than 5 years after June 10, 1993, the Secretary shall conduct an evaluation to—

(1) determine the effect of this section on the planning and coordination of the AIDS research programs at the institutes, centers and divisions of the National Institutes of Health;

(2) evaluate the extent to which this part has eliminated the duplication of administrative resources among such Institutes, centers and divisions; and

(3) provide recommendations concerning future alterations with respect to this part.

**(c) Definitions**

For purposes of this part:

(1) The term “AIDS activities” means AIDS research and other activities that relate to acquired immune deficiency syndrome.

(2) The term “AIDS research” means research with respect to acquired immune deficiency syndrome.

(3) The term “Office” means the Office of AIDS Research.

(4) The term “Plan” means the plan required in section 300cc-40c(a)(1) of this title.

(July 1, 1944, ch. 373, title XXIII, §2359, as added Pub. L. 103-43, title XVIII, §1803, June 10, 1993, 107 Stat. 198; amended Pub. L. 109-482, title I, §104(b)(2)(F), Jan. 15, 2007, 120 Stat. 3693.)

## AMENDMENTS

2007—Subsec. (b). Pub. L. 109-482 substituted “Evaluation and report” for “Evaluation and report” in heading, struck out par. (1) designation before “Not later than”, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out heading and text of former par. (2). Text read as follows: “Not later than 1 year after the date on which the evaluation is commenced under paragraph (1), the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report concerning the results of such evaluation.”