

§ 2394-1a. Classification of reports

All information contained in any report transmitted under this chapter shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time the report is transmitted.

(Pub. L. 87-195, pt. III, §634B, as added Pub. L. 95-424, title V, §502(c), Oct. 6, 1978, 92 Stat. 959.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§ 2394a. Extortion and illegal payments to officials of foreign countries receiving international security assistance

Within 60 days after receiving information which substantiates that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

(Pub. L. 94-329, title VI, §607, June 30, 1976, 90 Stat. 768.)

CODIFICATION

Section was not enacted as part of Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961, which comprises this chapter.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§ 2394b. HELP Commission**(a) Short title**

This section may be cited as the “HELP Commission Act”.

(b) Findings

(1) The Congress finds that, despite the long-standing efforts and resources of the United States dedicated to helping needy people around the world, despair remains and in many areas is growing.

(2) Therefore, a commission should be established to bring together the best minds associated with development and humanitarian assistance to make a comprehensive review of—

(A) policy decisions, including why certain development projects are funded and others are not, successes, and best practices, including their applicability to other existing programs and projects;

(B) delivery obstacles, including the roles of United States agencies and other governmental and nongovernmental organizations;

(C) methodology, including whether the delivery of United States development assistance always represents best practices and whether it can be improved; and

(D) results, including measuring improvements in human capacity instead of in purely economic terms.

(3) An examination of these issues should present new approaches and ideas to ensure that United States development assistance reaches and benefits its intended recipients.

(c) Establishment of Commission; responsibilities

(1) There is established the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission (in this section referred to as the “Commission”).

(2) The Commission shall—

(A) identify the past and present objectives of United States development assistance, identify cases in which those objectives have been met, identify the beneficiaries of such assistance, and what percentage of the funds provided actually reached the intended beneficiaries;

(B) identify cases in which United States development assistance has been most successful, and analyze how such successes may be transferable to other countries or areas;

(C) study ways to expand educational opportunities and investments in people, and assess infrastructure needs;

(D) analyze how the United States could place conditions on governments in countries receiving United States development assistance, in light of and notwithstanding the objectives of the Millennium Challenge Account;

(E) analyze ways in which the United States can coordinate its development assistance programs with those of other donor countries and international organizations;

(F) analyze ways in which the safety of development assistance workers can be ensured, particularly in the midst of conflicts;

(G) compare the effectiveness of increased and open trade with development assistance, and analyze the advantages and disadvantages

of such trade and whether such trade could be a more effective alternative to United States development assistance;

(H) analyze ways in which the United States can strengthen the capacity of indigenous nongovernmental organizations to be more effective in grassroots development;

(I) analyze ways in which decisions on providing development assistance can involve more of the people of the recipient countries;

(J) analyze ways in which results can be measured if United States development assistance is targeted to the least developed countries;

(K) recommend standards that should be set for “graduating” recipient countries from United States development assistance;

(L) analyze whether United States development assistance should be used as a means to achieve United States foreign policy objectives;

(M) analyze how the United States can evaluate the performance of its development assistance programs not only against economic indicators, but in other ways, including how to measure the success of United States development assistance in democratization efforts; and evaluate the existing foreign assistance framework to ascertain the degree of coordination, or lack thereof, of the disparate foreign development programs as administered by the various Federal agencies, to identify and assess the redundancies of programs and organizational structures engaged in foreign assistance, and to recommend revisions to authorizing legislation for foreign assistance that would seek to reconcile competing foreign policy and foreign aid goals; and

(N) study any other areas that the Commission considers necessary relating to United States development assistance.

(d) Membership

(1) The Commission shall be composed of 21 members as follows:

(A) Six members shall be appointed by the President, of whom at least two shall be representatives of nongovernmental organizations.

(B) Four members shall be appointed by the majority leader of the Senate, and three members shall be appointed by the minority leader of the Senate.

(C) Four members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the minority leader of the House of Representatives.

(D) The Administrator of the United States Agency for International Development shall serve as a member of the Commission, *ex officio*.

(2) Members under subparagraphs (A) through (C) of paragraph (1) shall be appointed for the life of the Commission.

(3) Members of the Commission shall be selected from among individuals noted for their knowledge and experience in foreign assistance, particularly development and humanitarian assistance.

(4) The appointments under paragraph (1) shall be made not later than 60 days after January 23, 2004.

(5) The President shall designate one of the members of the Commission not currently in Government service as the Chair of the Commission.

(6) In order to facilitate the workload of the Commission, the Commission shall divide the membership of the Commission into three subcommittees representing the different regions of the world to which the United States provides development assistance, the membership of each subcommittee to be proportional to the percentage of United States development assistance provided to the region represented by the subcommittee. Each subcommittee shall elect one of its members as Chair of the subcommittee.

(7)(A) Eleven members of the Commission shall constitute a quorum for purposes of transacting the business of the Commission. The Commission shall meet at the call of the Chair.

(B) A majority of the members of each regional subcommittee shall constitute a quorum for purposes of transacting the business of the subcommittee. Each subcommittee shall meet at the call of the Chair of the subcommittee.

(8) Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(9) The Administrator of General Services shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this section.

(10)(A) Subject to subparagraph (B), members of the Commission shall serve without pay.

(B) Members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(11) Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Commission.

(12)(A) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) To the extent or in the amounts provided in advance in appropriations Acts—

(i) the executive director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5; and

(ii) the Chairman of the Commission may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(e) Authority

(1) The Commission may, for the purpose of carrying out its functions under this section, hold hearings, sit and act at times and places in the United States and in countries that receive United States development assistance, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this section.

(2) The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out the provisions of this section.

(5) The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purposes of this section. Each trip must be approved by a majority of the Commission.

(6) Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its functions under this section. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(f) Report of Commission

(1) Not later than 2 years after the members of the Commission are appointed under subsection (d)(1) of this section, the Commission shall submit a report to the President, the Secretary of State, the Committee on Appropriations and the Committee on International Relations of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, setting forth its findings and recommendations under section¹ (c)(2).

(2) The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this section.

(3) Each member of the Commission may include the individual or dissenting views of the member.

(g) Applicability of other laws

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) Definition

In this section, the term “United States development assistance” means—

(1) assistance provided by the United States under chapters 1, 10, 11, and 12 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq., 2293 et seq., 2295 et seq., 2296 et seq.]; and

(2) assistance provided under any other provision of law to carry out purposes comparable to those set forth in the provisions referred to in paragraph (1).

(i) Authorization of appropriations

(1) There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) Amounts authorized to be appropriated under subsection (a) of this section are authorized to remain available until expended, but not later than the date of termination of the Commission.

(j) Termination

The Commission shall terminate 30 days after the submission of its report under subsection (f) of this section.

(k) Annual report of President

(1) Not later than April 1, 2004, and April 1 of each third year thereafter, the President shall transmit to the Congress a report that analyzes, on a country-by-country basis, the impact and effectiveness of United States economic assistance furnished to each country during the preceding 3 fiscal years. The report shall include the following for each recipient country:

(A) An analysis of the impact of United States economic assistance during the preceding 3 fiscal years on economic development in that country, with a discussion of the United States interests that were served by the assistance. The analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms that were promoted by the assistance. The analysis shall—

(i) include a description, quantified to the extent practicable, of the specific objectives the United States sought to achieve in providing economic assistance for that country; and

(ii) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

(B) A description of the amount and nature of economic assistance provided by other donors during the preceding 3 fiscal years, set forth by development sector to the extent possible.

(C) A discussion of the commitment of the host government to addressing the country’s needs in each development sector, including a description of the resources devoted by that government to each development sector during the preceding 3 fiscal years.

(D) A description of the trends, both favorable and unfavorable, in each development sector.

(E) Statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country.

(F) A comparison of the analysis provided in the report with relevant analyses by international financial institutions, other international organizations, other donor countries, or nongovernmental organizations.

(2) The report required by this section shall identify—

¹ So in original. Probably should be “subsection”.

(A) each country in which United States economic assistance has been most successful, as indicated by the extent to which the specific objectives the United States sought to achieve in providing the assistance for the country, as referred to in paragraph (1)(A)(i), were achieved; and

(B) each country in which United States economic assistance has been least successful, as indicated by the extent to which the specific objectives the United States sought to achieve in providing the assistance for the country, as referred to in paragraph (1)(A)(i), were not achieved; and, for each such country, an explanation of why the assistance was not more successful and a specification of what the United States has done as a result.

(3) Information under paragraphs (1) and (2) for a fiscal year shall not be required with respect to a country for which United States economic assistance for the country for the fiscal year is less than \$5,000,000.

(4) In this subsection, the term “United States economic assistance” means any bilateral economic assistance, from any budget functional category, that is provided by any department or agency of the United States to a foreign country, including such assistance that is intended—

(A) to assist the development and economic advancement of friendly foreign countries and peoples;

(B) to promote the freedom, aspirations, or sustenance of friendly peoples under oppressive rule by unfriendly governments;

(C) to promote international trade and foreign direct investment as a means of aiding economic growth;

(D) to save lives and alleviate suffering of foreign peoples during or following wars, natural disasters, or complex crises²;

(E) to assist in recovery and rehabilitation of countries or peoples following disaster or war;

(F) to protect refugees and promote durable solutions to aid refugees;

(G) to promote sound environmental practices;

(H) to assist in development of democratic institutions and good governance by the people of foreign countries;

(I) to promote peace and reconciliation or prevention of conflict;

(J) to improve the technical capacities of governments to reduce production of and demand for illicit narcotics; and

(K) to otherwise promote through bilateral foreign economic assistance the national objectives of the United States.

(Pub. L. 108–199, div. B, title VI, § 637, Jan. 23, 2004, 118 Stat. 101.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Foreign Assistance Act of 1961, referred to in subsec. (h)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapters 1, 10, 11, and 12 of part I of the

Act are classified generally to parts I (§2151 et seq.), X (§2293 et seq.), XI (§2295 et seq.), and XII (§2296 et seq.) of subchapter I of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as the HELP Commission Act, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004, and the Consolidated Appropriations Act, 2004, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

ASSIGNMENT OF FUNCTIONS IMPLEMENTING THE HELP COMMISSION ACT

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 78847, provided:

Memorandum for the Secretary of State [and] the Administrator of the United States Agency for International Development

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code:

1. The functions of the President under subsection 637(k) of the [Departments of] Commerce, Justice[,] and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Division B, Public Law 108–199) (22 U.S.C. 2394b(k)) (the “Act”) are assigned to the Secretary of State (Secretary).

2. The Administrator of the United States Agency for International Development shall provide support to assist the Secretary in the performance of functions assigned by this memorandum, and the heads of executive departments and agencies with information concerning assistance programs shall furnish promptly to the Secretary, consistent with applicable law, such information as the Secretary may request to assist in fulfillment of these responsibilities for the preparation of the report to which subsection 637(k) refers.

3. The Secretary shall coordinate the receipt by departments and agencies of requests from the HELP Commission under section 637(e) of the Act for information and their responses to such requests. Such departments and agencies shall provide relevant information and responses promptly. The Secretary shall ensure that such responses occur in a manner consistent with the President’s constitutional authority to withhold information that could impair foreign relations, national security, the deliberate processes of the Executive, or the performance of the Executive’s constitutional duties.

4. Heads of executive departments and agencies shall assist the Secretary in the implementation of this memorandum.

5. The Secretary is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 2395. General authorities

(a) Manner of furnishing assistance; emphasis on loans

Except as otherwise specifically provided in this chapter, assistance under this chapter may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this chapter, and shall emphasize loans rather than grants wherever possible.

² So in original. Probably should be “crises”.