

appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 2358. Foreign and domestic excess property

#### (a) Advance acquisition of property; special account for payment of costs; limitation; use of property

It is the sense of the Congress that in furnishing assistance under subchapter I of this chapter excess personal property, or (if a substantial savings would occur) other property already owned by an agency of the United States Government, shall be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States-assisted projects and programs. The President is authorized to maintain in a separate account, which shall, notwithstanding section 1535(d) of title 31, be free from fiscal year limitation, \$5,000,000 of funds made available under part I of subchapter I of this chapter, which may be used to pay costs (including personnel costs) of acquisition, storage, renovation and rehabilitation, packing, crating, handling, transportation, and related costs of property classified as domestic or foreign excess property pursuant to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, any property available from an agency of the United States Government, or other property, in advance of known requirements therefor for use in furtherance of the purposes of subchapter I of this chapter: *Provided*, That the amount of property classified as domestic excess property pursuant to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 held at any one time pursuant to this section shall not exceed \$15,000,000 in total original acquisition cost. Property acquired pursuant to the preceding sentence may be furnished (1) pursuant to any provision of subchapter I of this chapter for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred, or (2) pursuant to section 2357 of this title, in which case such separate account shall be repaid in accordance with the provisions of that section for all costs incurred.

#### (b) Transfer of domestic excess property

Property classified as domestic excess property under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 shall not be transferred to the agency primarily responsible for administering subchapter I of this chapter for use pursuant to the provisions of subchapter I of this chapter or section 2357 of this title unless (1) such property is transferred for use exclusively by an agency of the United States Government, or (2) it has been determined in the same manner as provided for surplus property in section 549(a) to (e) of title 40, that such property is not needed for donation

pursuant to those subsections. The foregoing restrictions shall not apply to the transfer in any fiscal year for use pursuant to the provisions of subchapter I of this chapter of amounts of such property with a total original acquisition cost to the United States Government not exceeding \$45,000,000.

(Pub. L. 87-195, pt. III, § 608, Sept. 4, 1961, 75 Stat. 441; Pub. L. 89-583, pt. III, § 301(c), Sept. 19, 1966, 80 Stat. 804; Pub. L. 90-137, pt. III, § 301(b), Nov. 14, 1967, 81 Stat. 458; Pub. L. 95-424, title I, § 102(g)(2)(C), Oct. 6, 1978, 92 Stat. 942; Pub. L. 97-113, title VII, § 701, Dec. 29, 1981, 95 Stat. 1543.)

#### REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§ 2346 et seq.), VI (§ 2348 et seq.), and VIII (§ 2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title.

#### REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

#### CODIFICATION

In text, “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for references to the Federal Property and Administrative Services Act of 1949, as amended, on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a), “section 1535(d) of title 31” substituted for “section 1210 of the General Appropriation Act, 1951 (64 Stat. 765) [31 U.S.C. 686-1]” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (b), “section 549(a) to (e) of title 40” substituted for “section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended” and “those subsections” substituted for “that subsection” 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.

#### AMENDMENTS

1981—Subsec. (a). Pub. L. 97-113 authorized for subchapter I assistance use of property already owned by an agency of the United States (if a substantial savings would occur) as supplementary to procurement of new items for United States-assisted projects and programs and use of separate account funds for payment of costs of any property available from an agency of the United States.

1978—Subsec. (a). Pub. L. 95-424 substituted “part 1 of subchapter 1 of this chapter” for “section 2172 of this title”.

1967—Subsec. (a). Pub. L. 90-137 required, in furnishing assistance under subchapter I of this chapter, utilization of excess personal property wherever practicable in lieu of new items for United States-assisted projects and programs.

1966—Subsec. (a). Pub. L. 89-583 permitted personnel costs attributable to the excess property program to be charged to the separate account for the advance acquisition of property.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-424 effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as a 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.

**§ 2359. Repealed. Pub. L. 105-277, div. A, § 101(d) [title V, § 533(a)(5)], Oct. 21, 1998, 112 Stat. 2681-150, 2681-180**

Section, Pub. L. 87-195, pt. III, § 609, Sept. 4, 1961, 75 Stat. 442, related to special accounts for proceeds from sales of commodities furnished on a grant basis.

**§ 2360. Transfer of funds between accounts**

**(a) Necessity of transfer; limitations**

Whenever the President determines it to be necessary for the purposes of this chapter, not to exceed 10 per centum of the funds made available for any provision of this chapter (except funds made available pursuant to subpart IV of part II of subchapter I of this chapter or for section 2763 of this title) may be transferred to, and consolidated with, the funds made available for any provision of this chapter (except funds made available under part II of subchapter II of this chapter), and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision.

**(b) Augmentation of other appropriations**

The authority contained in this section and in sections 2261, 2318 and 2364 of this title, shall not be used to augment appropriations made available pursuant to sections 2396(g)(1) and 2397 of this title or used otherwise to finance activities which normally would be financed from appropriations for administrative expenses.

**(c) Military and development assistance purposes**

Any funds which the President has notified Congress pursuant to section 2413 of this title that he intends to provide in military assistance to any country may be transferred to, and consolidated with, any other funds he has notified Congress pursuant to such section that he intends to provide to that country for development assistance purposes.

(Pub. L. 87-195, pt. III, § 610, Sept. 4, 1961, 75 Stat. 442; Pub. L. 87-565, pt. III, § 301(a), Aug. 1, 1962, 76 Stat. 260; Pub. L. 89-371, § 3, Mar. 18, 1966, 80 Stat. 74; Pub. L. 89-583, pt. III, § 301(d), Sept. 19, 1966, 80 Stat. 804; Pub. L. 90-137, pt. III, § 301(c), Nov. 14, 1967, 81 Stat. 458; Pub. L. 91-175, pt. III, § 301, Dec. 30, 1969, 83 Stat. 820; Pub. L. 93-559, § 19(a), Dec. 30, 1974, 88 Stat. 1800; Pub. L. 95-384, § 10(b)(2), Sept. 26, 1978, 92 Stat. 735; Pub. L. 101-623, § 10(a), Nov. 21, 1990, 104 Stat. 3356.)

## REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

## AMENDMENTS

1990—Subsec. (a). Pub. L. 101-623 inserted "or for section 2763 of this title" after "subchapter I of this chap-

ter" and struck out "other" after second reference to "funds made available for any".

1978—Subsec. (b). Pub. L. 95-384 struck out provisions authorizing transfer and consolidation of not to exceed \$9,000,000 of the funds appropriated under section 2242 of this title with the funds appropriated under section 2397(a) of this title to be available solely for additional administrative expenses incurred in connection with programs in Vietnam.

1974—Subsec. (a). Pub. L. 93-559, § 19(a)(1), inserted provisions excepting funds made available under part II of subchapter II of this chapter from the designation of funds subject to consolidation.

Subsec. (c). Pub. L. 93-559, § 19(a)(2), added subsec. (c).

1969—Subsec. (a). Pub. L. 91-175 inserted provision excepting funds made available pursuant to subpart IV of part II of subchapter I of this chapter from the designation of funds subject to consolidation.

1967—Subsec. (b). Pub. L. 90-137 increased limitation on funds available for transfer from \$5,000,000 to \$9,000,000.

1966—Subsec. (b). Pub. L. 89-583 substituted provisions authorizing transfer of \$5,000,000 for administrative expenses for any fiscal year incurred in connection with programs in Vietnam for provisions authorizing transfer of \$1,400,000 for administrative expenses for fiscal year 1966 incurred in connection with programs in the Republic of Vietnam.

Pub. L. 89-371 authorized transfer of \$1,400,000 for administrative expenses for fiscal year 1966 incurred in connection with programs in the Republic of Vietnam.

1962—Pub. L. 87-565 designated existing provisions as subsec. (a) and added subsec. (b).

## EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-623, § 10(b), Nov. 21, 1990, 104 Stat. 3356, provided that: "The amendments made by subsection (a) [amending this section] apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter."

## 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.

**§ 2361. Completion of plans and cost estimates**

**(a) Restriction on agreements or grants**

No agreement or grant which constitutes an obligation of the United States Government in excess of \$500,000 under section 1501 of title 31 shall be made for any assistance authorized under part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter—

(1) if such agreement or grant requires substantive technical or financial planning, until engineering, financial, and other plans necessary to carry out such assistance, and a reasonably firm estimate of the cost to the United States Government of providing such assistance, have been completed; and

(2) if such agreement or grant requires legislative action within the recipient country, unless such legislative action may reasonably be anticipated to be completed in time to permit the orderly accomplishment of the purposes of such agreement or grant.

**(b) Plans for water or related land resource construction projects; computation of benefits and costs**

Plans required under subsection (a) of this section for any water or related land resource con-