

(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.

(b) Authority of the President

The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, friendly government or government agency, whether within or without the United States, and international organizations in furtherance of the purposes and within the limitations of this chapter.

(c) Utilization of services and facilities of voluntary, nonprofit organizations

It is the sense of Congress that the President, in furthering the purposes of this chapter, shall use to the maximum extent practicable the services and facilities of voluntary, nonprofit organizations registered with, and approved by, the Agency for International Development.

(d) Acceptance of gifts, devises, bequests, grants, etc.

The President may accept and use in furtherance of the purposes of this chapter, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

(e) Health and accident insurance for foreign participants and foreign employees

(1) Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing technical information and assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

(2) Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their place of employment abroad for purposes of training or other official duties.

(f) Admission of alien participants

Alien participants in any program of furnishing technical information and assistance under this chapter may be admitted to the United States if otherwise qualified as nonimmigrants under section 1101(a)(15) of title 8, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

(g) Powers and authorities of the President with respect to loans

In making loans under this chapter, the President—

(1) may issue letters of credit and letters of commitment;

(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and, as he may determine, refer any such obligations or rights to the Attorney General for suit or collection;

(3) may acquire and dispose of, upon such terms and conditions as he may determine, any property, including any instrument evidencing indebtedness or ownership (provided that equity securities may not be directly purchased although such securities may be acquired by other means such as by exercise of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness), and guarantee payment against any such instrument;

(4) may determine the character of, and necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

(5) shall cause to be maintained an integral set of accounts which shall be audited by the Government Accountability Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by chapter 91 of title 31.

(h) Term of contracts and agreements

A contract or agreement which entails commitments for the expenditure of funds made available under part I (except development loans) and subpart II of part II of subchapter I and under subchapter II of this chapter, may, subject to any future action of the Congress, extend at any time for not more than five years.

(i) Settlement and arbitration of claims arising under investment guaranty operations

Claims arising as a result of investment guaranty operations may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Financial transactions with foreign governments; exemption

The provisions of section 955 of title 18 shall not apply to prevent any person, including any individual, partnership, corporation, or association, from acting for, or participating in, any operation or transaction arising under this chapter, or from acquiring any obligation issued in connection with any operation or transaction arising under this chapter.

(k) Cost-type contracts with educational institutions; payment of reimbursable indirect costs

Any cost-type contract or agreement (including grants) entered into with a university, college, or other educational institution for the purpose of carrying out programs authorized by subchapter I of this chapter may provide for the

payment of the reimbursable indirect costs of said university, college, or other educational institution on the basis of predetermined fixed-percentage rates applied to the total, or an element thereof, of the reimbursable direct costs incurred.

(l) Program oversight

The Administrator of the agency primarily responsible for administering subchapter I of this chapter may use funds made available under that subchapter to provide program and management oversight for activities that are funded under that subchapter and that are conducted in countries in which the agency does not have a field mission or office.

(m) Working capital fund

(1) There is established a working capital fund (in this subsection referred to as the "fund") for the United States Agency for International Development (in this subsection referred to as the "Agency") which shall be available without fiscal year limitation for the expenses of personal and nonpersonal services, equipment, and supplies for—

(A) International Cooperative Administrative Support Services; and

(B) rebates from the use of United States Government credit cards.

(2) The capital of the fund shall consist of—

(A) the fair and reasonable value of such supplies, equipment, and other assets pertaining to the functions of the fund as the Administrator determines,

(B) rebates from the use of United States Government credit cards, and

(C) any appropriations made available for the purpose of providing capital,

minus related liabilities.

(3) The fund shall be reimbursed or credited with advance payments for services, equipment, or supplies provided from the fund from applicable appropriations and funds of the Agency, other Federal agencies and other sources authorized by section 2357 of this title at rates that will recover total expenses of operation, including accrual of annual leave and depreciation. Receipts from the disposal of, or payments for the loss or damage to, property held in the fund, rebates, reimbursements, refunds and other credits applicable to the operation of the fund may be deposited in the fund.

(4) At the close of each fiscal year the Administrator of the Agency shall transfer out of the fund to the miscellaneous receipts account of the Treasury of the United States such amounts as the Administrator determines to be in excess of the needs of the fund.

(5) The fund may be charged with the current value of supplies and equipment returned to the working capital of the fund by a post, activity, or agency, and the proceeds shall be¹ credited to current applicable appropriations.

(Pub. L. 87-195, pt. III, § 635, Sept. 4, 1961, 75 Stat. 456; Pub. L. 87-565, pt. III, § 302(g), Aug. 1, 1962, 76 Stat. 262; Pub. L. 88-205, pt. III, § 302(e), Dec. 16, 1963, 77 Stat. 389; Pub. L. 89-171, pt. III, § 302(g),

¹ So in original. Probably should be "be".

Sept. 6, 1965, 79 Stat. 660; Pub. L. 89-583, pt. III, §302(d), Sept. 19, 1966, 80 Stat. 807; Pub. L. 90-137, pt. III, §302(i), Nov. 14, 1967, 81 Stat. 461; Pub. L. 95-424, title I, §102(g)(2)(G), Oct. 6, 1978, 92 Stat. 943; Pub. L. 96-53, title I, §121, Aug. 14, 1979, 93 Stat. 366; Pub. L. 106-264, title III, §301, Aug. 19, 2000, 114 Stat. 760; Pub. L. 106-309, title IV, §404, Oct. 17, 2000, 114 Stat. 1098; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (d), (g), and (j), 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.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

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 subsec. (g)(5), “chapter 91 of title 31” substituted for “the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.)” 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.

AMENDMENTS

2004—Subsec. (g)(5). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

2000—Subsec. (l). Pub. L. 106-264 added subsec. (l). Subsec. (m). Pub. L. 106-309 added subsec. (m).

1979—Subsec. (c). Pub. L. 96-53 substituted “Agency for International Development” for “Advisory Committee on Voluntary Foreign Aid”.

1978—Subsec. (h). Pub. L. 95-424 substituted “part I (except development loans) and subpart II of part II of subchapter I” for “subparts II, V, and VI of part II of subchapter I (except development loans)”.

1967—Subsec. (e). Pub. L. 90-137, §302(i)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 90-137, §302(i)(2), struck out “and sales” after “loans” in introductory clause.

1966—Subsec. (h). Pub. L. 89-583 excluded development loans under the Alliance for Progress from the provision that contracts or agreements which entail commitments for the expenditure of funds may not extend for more than five years.

1965—Subsec. (g). Pub. L. 89-171 inserted “and sales” in introductory clause.

1963—Subsec. (k). Pub. L. 88-205 added subsec. (k).

1962—Subsec. (h). Pub. L. 87-565 included sections 2211 to 2213 of this title within the limitation on the duration of contracts and agreements.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 of this title.

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.

EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90-137, pt. III, §302(i)(2), Nov. 14, 1967, 81 Stat. 461, provided in part that amendment of subsec. (g) by such section 302(i)(2) shall take effect on June 30, 1968.

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.

INTERNATIONAL AGREEMENTS

The negotiation, conclusion, and termination of international agreements pursuant to this chapter shall be subject to requirements of section 112b of Title 1, General Provisions, and to applicable regulations and procedures, see section 1-604 of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56677, eff. Oct. 1, 1979, set out as a note under section 2381 of this title.

INFORMATION TO CONGRESSIONAL COMMITTEES ON NEGOTIATIONS REGARDING DEBTS OWED UNITED STATES BY FOREIGN GOVERNMENTS; TRANSMITTAL TO CONGRESS OF DEBT MODIFICATION PROPOSALS

Pub. L. 93-333, §4, July 8, 1974, 88 Stat. 290, relating to cancellation, renegotiation, etc., of any debt owed by a foreign government, was repealed by Pub. L. 95-424, title VI, §603(b), Oct. 6, 1978, 92 Stat. 961.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by 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.

§ 2395a. International agreements concerning debt relief; transmittal to congressional committees

(1) Repealed. Pub. L. 97-113, title VII, §734(a)(5), Dec. 29, 1981, 95 Stat. 1560.

(2) The Secretary of State shall transmit to such committees a copy of the text of any agreement with any foreign government which would result in any such debt relief no less than thirty days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief. The requirements of this paragraph shall not apply with respect to an agreement if a statutory requirement exists that the amount of the debt relief provided by the agreement may not exceed the amount approved for such purposes in advance in an appropriation Act.

(Pub. L. 95-424, title VI, §603(a), Oct. 6, 1978, 92 Stat. 960; H. Res. 89, Feb. 5, 1979; Pub. L. 97-113, title VII, §734(a)(5), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES IN TEXT

“Such committees” and “such debt relief”, referred to in par. (2), mean the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of each House of Congress named as the ongoing recipients of any information respecting debt relief negotiations with foreign governments regarding any debts owing to the United States in par. (1) provisions prior to repeal thereof by section 734(a)(1) of Pub. L. 97-113.