

activities of the agencies, but does not remove the responsibility of the heads of the agencies for the approval of specific programs or projects, or for other details of the daily administration of such activities, in accordance with the Plan.

(b) Certain components of Plan

With respect to AIDS activities of the agencies of the National Institutes of Health, the Director of the Office shall ensure that the Plan—

- (1) provides for basic research;
- (2) provides for applied research;
- (3) provides for research that is conducted by the agencies;
- (4) provides for research that is supported by the agencies;
- (5) provides for proposals developed pursuant to solicitations by the agencies and for proposals developed independently of such solicitations; and
- (6) provides for behavioral research and social sciences research.

(c) Budget estimates

(1) Full-funding budget

(A) With respect to a fiscal year, the Director of the Office shall prepare and submit directly to the President, for review and transmittal to the Congress, a budget estimate for carrying out the Plan for the fiscal year, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the advisory council established under section 300cc-40b of this title. The budget estimate shall include an estimate of the number and type of personnel needs for the Office.

(B) The budget estimate submitted under subparagraph (A) shall estimate the amounts necessary for the agencies of the National Institutes of Health to carry out all AIDS activities determined by the Director of the Office to be appropriate, without regard to the probability that such amounts will be appropriated.

(2) Alternative budgets

(A) With respect to a fiscal year, the Director of the Office shall prepare and submit to the Secretary and the Director of the National Institutes of Health the budget estimates described in subparagraph (B) for carrying out the Plan for the fiscal year. The Secretary and such Director shall consider each of such estimates in making recommendations to the President regarding a budget for the Plan for such year.

(B) With respect to the fiscal year involved, the budget estimates referred to in subparagraph (A) for the Plan are as follows:

- (i) The budget estimate submitted under paragraph (1).
- (ii) A budget estimate developed on the assumption that the amounts appropriated will be sufficient only for—

(I) continuing the conduct by the agencies of the National Institutes of Health of existing AIDS activities (if approved for continuation), and continuing the support of such activities by the agencies in the case of projects or programs for which the

agencies have made a commitment of continued support; and

(II) carrying out, of activities that are in addition to activities specified in subclause (I), only such activities for which the Director determines there is the most substantial need.

(iii) Such other budget estimates as the Director of the Office determines to be appropriate.

(d) Funding

(1) Authorization of appropriations

For the purpose of carrying out AIDS activities under the Plan, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

(2) Receipt of funds

For the first fiscal year beginning after the date on which the Plan first established under subsection (a)(1) of this section has been in effect for 12 months, and for each subsequent fiscal year, the Director of the Office shall receive directly from the President and the Director of the Office of Management and Budget all funds available for AIDS activities of the National Institutes of Health.

(3) Allocations for agencies

(A) Each fiscal year the Director of the Office shall, from the amounts received under paragraph (2) for the fiscal year, allocate to the agencies of the National Institutes of Health (in accordance with the Plan) all amounts available for such year for carrying out the AIDS activities specified in subsection (c)(2)(B)(ii)(I) of this section for such year. Such allocation shall, to the extent practicable, be made not later than 15 days after the date on which the Director receives amounts under paragraph (2).

(B) Each fiscal year the Director of the Office shall, from the amounts received under paragraph (2) for the fiscal year, allocate to the agencies of the National Institutes of Health (in accordance with the Plan) all amounts available for such year for carrying out AIDS activities that are not referred to in subparagraph (A). Such allocation shall, to the extent practicable, be made not later than 30 days after the date on which the Director receives amounts under paragraph (2).

(July 1, 1944, ch. 373, title XXIII, §2353, as added Pub. L. 103-43, title XVIII, §1801(a)(3), June 10, 1993, 107 Stat. 194.)

CODIFICATION

Section was formerly classified to section 300cc-40b of this title.

§ 300cc-41. Additional authorities

(a) In general

In carrying out AIDS research, the Director of the Office—

(1) shall develop and expand clinical trials of treatments and therapies for infection with the etiologic agent for acquired immune deficiency syndrome, including such clinical trials for women, infants, children, hemophiliacs, and minorities;

(2) may establish or support the large-scale development and preclinical screening, production, or distribution of specialized biological materials and other therapeutic substances for AIDS research and set standards of safety and care for persons using such materials;

(3) may support—

(A) AIDS research conducted outside the United States by qualified foreign professionals if such research can reasonably be expected to benefit the people of the United States;

(B) collaborative research involving American and foreign participants; and

(C) the training of American scientists abroad and foreign scientists in the United States;

(4) may encourage and coordinate AIDS research conducted by any industrial concern that evidences a particular capability for the conduct of such research;

(5)(A) may acquire, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the Director of the Office determines necessary;

(B) may make grants for the construction or renovation of facilities; and

(C) may acquire, without regard to section 8141 of title 40 by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Institutes of Health for a period not to exceed ten years; and

(6) subject to section 284(b)(2) of this title and without regard to section 3324 of title 31 and section 6101 of title 41, may enter into such contracts and cooperative agreements with any public agency, or with any person, firm, association, corporation, or educational institution, as may be necessary to expedite and coordinate research relating to acquired immune deficiency syndrome.

(b) Projects for cooperation among public and private health entities

In carrying out subsection (a) of this section, the Director of the Office shall establish projects to promote cooperation among Federal agencies, State, local, and regional public health agencies, and private entities, in research concerning the diagnosis, prevention, and treatment of acquired immune deficiency syndrome.

(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.