

**§ 2678. Reduction in earmarks if appropriations are less than authorizations**

If the amount appropriated (or made available in the event of a sequestration order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177; [2 U.S.C. 900 et seq.])) for a fiscal year pursuant to any authorization of appropriations provided by an Act other than an appropriation Act is less than the authorization amount and a provision of that Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated (or made available in the event of sequestration) bears to the authorization amount.

(Aug. 1, 1956, ch. 841, title I, §11, as added Pub. L. 101-246, title I, §106, Feb. 16, 1990, 104 Stat. 20.)

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in text, is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 2678, acts Aug. 1, 1956, ch. 841, title I, §11, 70 Stat. 892; Sept. 8, 1960, Pub. L. 86-723, §50, 74 Stat. 847; renumbered title I, Aug. 24, 1982, Pub. L. 97-241, title II, §202(a), 96 Stat. 282; Oct. 19, 1984, Pub. L. 98-533, title III, §303(b), 98 Stat. 2711, related to use of Government-owned vehicles for security purposes for travel by the Deputy Secretary of State, prior to repeal by Pub. L. 99-550, §2(d), Oct. 27, 1986, 100 Stat. 3070.

**§ 2679. Maximum rates of per diem in lieu of subsistence payable to foreign participants in exchange of persons program or in program of furnishing technical information and assistance**

The Secretary of State, with the approval of the Office of Management and Budget, shall prescribe the maximum rates of per diem in lieu of subsistence (or of similar allowances therefor) payable while away from their own countries to foreign participants in any exchange of persons program, or in any program of furnishing technical information and assistance, under the jurisdiction of any Government agency, and said rates may be fixed without regard to any provision of law in limitation thereof.

(Aug. 1, 1956, ch. 841, title I, §12, 70 Stat. 892; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; renumbered title I, Pub. L. 97-241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

Section was formerly classified to section 170q of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of Reorg. Plan No. 2 of 1970 redesignated Bureau of the Budget as Office of Management and Budget and offices of Director, Deputy Director, and Assistant Directors of Bureau of the Budget as Director, Deputy Director, and Assistant Directors, respectively, of Office of Management and Budget. Section 103 of Reorg. Plan No. 2 of 1970 transferred all records, property, personnel, and funds of Bureau of Office of Management and Budget. See Part I of Reorganization Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of Secretary of State under this section to prescribe certain maximum rates of per diem in lieu of subsistence (or of similar allowances therefor), without the approval, ratification, or other action of President, delegated to Secretary of State, see section 4 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

**§ 2679a. Procurement contracts**

**(a) Funding for periods not in excess of five years; conditions**

Any contract for the procurement of property or services, or both, for the Department of State or the Foreign Service which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(1) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(2) the Secretary of State determines that—

(A) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(B) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(C) such a method of contracting will not inhibit small business participation.

**(b) Cancellation of contracts**

In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(Aug. 1, 1956, ch. 841, title I, §14, as added and renumbered title I, Pub. L. 97-241, title I, §121, title II, §202(a), Aug. 24, 1982, 96 Stat. 280, 282.)

PRIOR PROVISIONS

A prior section 2679a, acts Aug. 1, 1956, ch. 841, §14, as added Oct. 26, 1974, Pub. L. 93-475, §10(a)-(d), 88 Stat. 1441; amended Nov. 29, 1975, Pub. L. 94-141, title IV, §407(a), 89 Stat. 771; Aug. 17, 1977, Pub. L. 95-105, title IV, §410(a), 91 Stat. 854, set forth provisions respecting death guaranties for certain Foreign Service personnel, prior to repeal by Pub. L. 96-465, title II, §2205(10), Oct.