

(3) no action has been taken by the entity to correct such conditions;

the Director of NIH shall suspend or revoke such grant or contract under such conditions as the Director determines appropriate.

(e) Disclosure of trade secrets or privileged or confidential information

No guideline or regulation promulgated under subsection (a) or (c) may require a research entity to disclose publicly trade secrets or commercial or financial information which is privileged or confidential.

(July 1, 1944, ch. 373, title IV, § 495, as added Pub. L. 99-158, § 2, Nov. 20, 1985, 99 Stat. 875.)

PROHIBITION ON FUNDING OF PROJECTS INVOLVING USE OF CHIMPANZEES OBTAINED FROM THE WILD

Pub. L. 102-394, title II, § 213, Oct. 6, 1992, 106 Stat. 1812, provided that: "No funds appropriated under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term 'recipient of Federal funds' includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-170, title II, § 213, Nov. 26, 1991, 105 Stat. 1127.

Pub. L. 101-517, title II, § 211, Nov. 5, 1990, 104 Stat. 2209.

Pub. L. 101-166, title II, § 214, Nov. 21, 1989, 103 Stat. 1178.

PLAN FOR RESEARCH INVOLVING ANIMALS

Section 4 of Pub. L. 99-158 directed Director of National Institutes of Health to establish, not later than Oct. 1, 1986, a plan for research into methods of biomedical research and experimentation which reduces the use of animals in research or which produce less pain and distress in animals to develop methods found to be valid and reliable, to train scientists in use of such methods, to disseminate information on such methods and to establish an Interagency Coordinating Committee to assist in development of the plan, prior to repeal by Pub. L. 103-43, title II, § 205(b), June 10, 1993, 107 Stat. 148. See section 283e of this title.

§ 289e. Use of appropriations

(a) Appropriations to carry out the purposes of this subchapter, unless otherwise expressly provided, may be expended in the District of Columbia for—

- (1) personal services;
- (2) stenographic recording and translating services;
- (3) travel expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary);
- (4) rental;
- (5) supplies and equipment;
- (6) purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings;
- (7) purchase, operation, and maintenance of passenger motor vehicles;
- (8) printing and binding (in addition to that otherwise provided by law); and
- (9) all other necessary expenses in carrying out this subchapter.

Such appropriations may be expended by contract if deemed necessary, without regard to section 6101 of title 41.

(b)(1) None of the amounts appropriated under this chapter for the purposes of this subchapter may be obligated for the construction of facilities (including the acquisition of land) unless a provision of this subchapter establishes express authority for such purpose and unless the Act making appropriations under such provision specifies that the amounts appropriated are available for such purpose.

(2) Any grants, cooperative agreements, or contracts authorized in this subchapter for the construction of facilities may be awarded only on a competitive basis.

(July 1, 1944, ch. 373, title IV, § 496, as added Pub. L. 99-158, § 2, Nov. 20, 1985, 99 Stat. 877; amended Pub. L. 101-190, § 8, Nov. 29, 1989, 103 Stat. 1695; Pub. L. 103-43, title XX, § 2008(b)(15), June 10, 1993, 107 Stat. 211.)

CODIFICATION

In subsec. (a), "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

1993—Subsec. (a). Pub. L. 103-43 substituted "Appropriations to carry out the purposes of this subchapter" for "Such appropriations".

1989—Subsec. (a). Pub. L. 101-190 designated existing provisions as subsec. (a), struck out first sentence which read as follows: "Appropriations to carry out the purposes of this subchapter shall be available for the acquisition of land or the erection of buildings only if so specified.", and added subsec. (b).

CONSTRUCTION OF BIOMEDICAL FACILITIES FOR DEVELOPMENT AND BREEDING OF SPECIALIZED STRAINS OF MICE

Pub. L. 101-190, §§ 1-7, Nov. 29, 1989, 103 Stat. 1691-1695, as amended by Pub. L. 101-374, § 4(a), (c)(1), Aug. 15, 1990, 104 Stat. 458, 459, authorized a reservation of funds for making a grant to construct facilities for development and breeding of specialized strains of mice for use in biomedical research, provided for a competitive grant award process, required applicant for the grant to agree to a twenty-year transferable obligation, restricted grant applicant to public or nonprofit private status, with assurances of sufficient financial resources, set forth other grant requirements, and specified consequences of failure to comply with agreements and violation of the twenty-year obligation.

§ 289f. Gifts and donations; memorials

The Secretary may, in accordance with section 238 of this title, accept conditional gifts for the National Institutes of Health or a national research institute or for the acquisition of grounds or for the erection, equipment, or maintenance of facilities for the National Institutes of Health or a national research institute. Donations of \$50,000 or over for the National Institutes of Health or a national research institute for carrying out the purposes of this subchapter may be acknowledged by the establishment within the National Institutes of Health or a national research institute of suitable memorials to the donors.

(July 1, 1944, ch. 373, title IV, § 497, as added Pub. L. 99-158, § 2, Nov. 20, 1985, 99 Stat. 877; amended

Pub. L. 99-660, title III, §311(b)(1), Nov. 14, 1986, 100 Stat. 3779; Pub. L. 100-607, title II, §204(3), Nov. 4, 1988, 102 Stat. 3079; Pub. L. 100-690, title II, §2620(b)(2), Nov. 18, 1988, 102 Stat. 4244; Pub. L. 101-381, title I, §102(5), Aug. 18, 1990, 104 Stat. 586; Pub. L. 103-43, title XX, §2010(b)(6), June 10, 1993, 107 Stat. 214.)

AMENDMENTS

1993—Pub. L. 103-43 substituted “section 238” for “section 300aaa”.

1990—Pub. L. 101-381 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

1988—Pub. L. 100-690 made technical amendment to reference to section 300aaa of this title to reflect renumbering of corresponding section of original act.

Pub. L. 100-607 substituted “300aaa” for “300cc”.

1986—Pub. L. 99-660 substituted “section 300cc of this title” for “section 300aa of this title”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-690 effective immediately after enactment of Pub. L. 100-607, which was approved Nov. 4, 1988, see section 2600 of Pub. L. 100-690, set out as a note under section 242m of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-660 effective Dec. 22, 1987, see section 323 of Pub. L. 99-660, as amended, set out as an Effective Date note under section 300aa-1 of this title.

§ 289g. Fetal research**(a) Conduct or support by Secretary; restrictions**

The Secretary may not conduct or support any research or experimentation, in the United States or in any other country, on a nonviable living human fetus ex utero or a living human fetus ex utero for whom viability has not been ascertained unless the research or experimentation—

(1) may enhance the well-being or meet the health needs of the fetus or enhance the probability of its survival to viability; or

(2) will pose no added risk of suffering, injury, or death to the fetus and the purpose of the research or experimentation is the development of important biomedical knowledge which cannot be obtained by other means.

(b) Risk standard for fetuses intended to be aborted and fetuses intended to be carried to term to be same

In administering the regulations for the protection of human research subjects which—

(1) apply to research conducted or supported by the Secretary;

(2) involve living human fetuses in utero; and

(3) are published in section 46.208 of part 46 of title 45 of the Code of Federal Regulations;

or any successor to such regulations, the Secretary shall require that the risk standard (published in section 46.102(g) of such part 46 or any successor to such regulations) be the same for fetuses which are intended to be aborted and fetuses which are intended to be carried to term.

(July 1, 1944, ch. 373, title IV, §498, as added Pub. L. 99-158, §2, Nov. 20, 1985, 99 Stat. 877; amended Pub. L. 100-607, title I, §§156, 157(b), Nov. 4, 1988, 102 Stat. 3059; Pub. L. 103-43, title I, §121(b)(1), June 10, 1993, 107 Stat. 133.)

AMENDMENTS

1993—Subsec. (c). Pub. L. 103-43 struck out subsec. (c) which directed Biomedical Ethics Advisory Committee to conduct a study of the nature, advisability, and biomedical and ethical implications of exercising any waiver of the risk standard published in section 46.102(g) of part 46 of title 45 of the Code of Federal Regulations and to report its finding to the Biomedical Ethics Board not later than 24 months after Nov. 4, 1988, which report was to be then transmitted to specified Congressional committees.

1988—Subsec. (c)(1). Pub. L. 100-607, §157(b), substituted “24 months after November 4, 1988” for “thirty months after November 20, 1985”.

Subsec. (c)(2). Pub. L. 100-607, §156(1), substituted “24-month period beginning on November 4, 1988” for “thirty-six month period beginning on November 20, 1985”.

Subsec. (c)(3). Pub. L. 100-607, §156(2), substituted “1990” for “1988”.

NULLIFICATION OF CERTAIN PROVISIONS

Pub. L. 103-43, title I, §121(c), June 10, 1993, 107 Stat. 133, provided that: “The provisions of Executive Order 12806 (57 Fed. Reg. 21589 (May 21, 1992)) [formerly set out below] shall not have any legal effect. The provisions of section 204(d) of part 46 of title 45 of the Code of Federal Regulations (45 CFR 46.204(d)) shall not have any legal effect.”

EXECUTIVE ORDER NO. 12806. ESTABLISHMENT OF FETAL TISSUE BANK

Ex. Ord. No. 12806, May 19, 1992, 57 F.R. 21589, which established a human fetal tissue bank, was nullified by Pub. L. 103-43, title I, §121(c), June 10, 1993, 107 Stat. 133, set out above.

FEDERAL FUNDING OF FETAL TISSUE TRANSPLANTATION RESEARCH

Memorandum of President of the United States, Jan. 22, 1993, 58 F.R. 7457, provided:

Memorandum for the Secretary of Health and Human Services

On March 22, 1988, the Assistant Secretary for Health of Health and Human Services (“HHS”) imposed a temporary moratorium on Federal funding of research involving transplantation of fetal tissue from induced abortions. Contrary to the recommendations of a National Institutes of Health advisory panel, on November 2, 1989, the Secretary of Health and Human Services extended the moratorium indefinitely. This moratorium has significantly hampered the development of possible treatments for individuals afflicted with serious diseases and disorders, such as Parkinson’s disease, Alzheimer’s disease, diabetes, and leukemia. Accordingly, I hereby direct that you immediately lift the moratorium.

You are hereby authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 289g-1. Research on transplantation of fetal tissue**(a) Establishment of program****(1) In general**

The Secretary may conduct or support research on the transplantation of human fetal tissue for therapeutic purposes.

(2) Source of tissue

Human fetal tissue may be used in research carried out under paragraph (1) regardless of whether the tissue is obtained pursuant to a spontaneous or induced abortion or pursuant to a stillbirth.

(b) Informed consent of donor**(1) In general**

In research carried out under subsection (a), human fetal tissue may be used only if the