

under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

CONTINUED SERVICE OF COMMISSION MEMBERS

Pub. L. 101-246, title II, § 206(b), Feb. 16, 1990, 104 Stat. 53, provided that each member of the United States Advisory Commission on Public Diplomacy as in existence on the day before Jan. 20, 1989, was to continue to serve for the remainder of the term to which such member was appointed.

SUBCHAPTER VII—ADMINISTRATIVE PROCEDURE

§ 1471. Authority of Secretary of State

In carrying out the purposes of this chapter, the Secretary is authorized, in addition to and not in limitation of the authority otherwise vested in him—

(1) In¹ carrying out subchapter II of this chapter, to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries;

(2) to furnish, sell, or rent, by contract or otherwise, educational and information materials and equipment for dissemination to, or use by, peoples of foreign countries;

(3) whenever necessary in carrying out subchapter V of this chapter, to purchase, rent, construct, improve, maintain, and operate facilities for radio and television transmission and reception, including the leasing of associated real property (either within or outside the United States) for periods not to exceed forty years, or for longer periods if provided for by an appropriation Act, and the alteration, improvement, and repair of such property, without regard to section 322² of the Act of June 30, 1932, and any such real property or interests therein which are outside the United States may be acquired without regard to sections 3111 and 3112 of title 40 if the sufficiency of the title to such real property or interests therein is approved by the Director of the United States Information Agency;

(4) to provide for printing and binding outside the continental limits of the United States, without regard to section 501 of title 44;

(5) to employ persons on a temporary basis without regard to the civil service and classification laws, when such employment is provided for by the pertinent appropriation Act;

(6) to create such advisory committees as the Secretary may decide to be of assistance in formulating his policies for carrying out the purposes of this chapter. No committee member shall be allowed any salary or other compensation for services; but he may be paid his transportation and other expenses, as authorized by section 5703 of title 5; and

(7) notwithstanding any other provision of law, to carry out projects involving security

construction and related improvements for overseas public diplomacy facilities not physically located together with other Department of State facilities abroad.

(Jan. 27, 1948, ch. 36, title VIII, § 801, 62 Stat. 11; Pub. L. 87-139, § 11, Aug. 14, 1961, 75 Stat. 341; 1977 Reorg. Plan No. 2, §§ 8(b), 9(a)(3), (4), 42 F.R. 62461, 91 Stat. 1637-1639; Pub. L. 96-60, title II, §§ 203(b)(1), (e), 204(a), Aug. 15, 1979, 93 Stat. 398-400; Pub. L. 97-241, title III, § 303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 98-164, title II, § 217, Nov. 22, 1983, 97 Stat. 1036; Pub. L. 100-204, title II, § 205, Dec. 22, 1987, 101 Stat. 1374; Pub. L. 102-138, title II, § 203, Oct. 28, 1991, 105 Stat. 692; Pub. L. 103-236, title II, § 222, Apr. 30, 1994, 108 Stat. 421; Pub. L. 105-277, div. G, subdiv. A, title XIII, § 1335(a)(4), Oct. 21, 1998, 112 Stat. 2681-787.)

REFERENCES IN TEXT

Section 322 of the Act of June 30, 1932, referred to in par. (3), is section 322 of act June 30, 1932, ch. 314, 47 Stat. 412, which was classified to section 278a of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 100-678, § 7, Nov. 17, 1988, 102 Stat. 4052.

CODIFICATION

“Sections 3111 and 3112 of title 40” substituted in par. (3) for “section 355 of the Revised Statutes of the United States (40 U.S.C. 255)” 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 par. (4), “section 501 of title 44” substituted for “section 11 of the Act of March 1, 1919 (44 U.S.C. 111)” on authority of Pub. L. 90-620, § 2(b), Oct. 22, 1968, 82 Stat. 1305, the first section of which enacted Title 44, Public Printing and Documents.

In par. (6), “, with the approval of the Commission on Information and the Commission on Educational Exchange,” was deleted pursuant to Reorg. Plan No. 2 of 1977, § 9(a)(3), (4), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, which abolished both the United States Advisory Commission on Information, and the United States Advisory Commission on International Educational and Cultural Affairs [which replaced the Advisory Commission on Educational Exchange], effective on or before July 1, 1978, at such time as specified by the President.

In par. (6), “section 5703 of title 5” substituted for “section 5 of the Administrative Expenses Act of 1946, as amended, (5 U.S.C. 73b-2)” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1998—Par. (7). Pub. L. 105-277 substituted “overseas public diplomacy” for “Agency” and inserted “other” after “together with”.

1994—Par. (7). Pub. L. 103-236 added par. (7).

1991—Par. (3). Pub. L. 102-138 inserted “and television” after “radio”.

1987—Par. (3). Pub. L. 100-204 substituted “forty” for “twenty-five”.

1983—Par. (3). Pub. L. 98-164 substituted “twenty-five” for “ten”.

1979—Par. (1). Pub. L. 96-60, § 204(a), struck out “with the limitation of such appropriations as the Congress may provide,” after “chapter.”

Par. (3). Pub. L. 96-60, § 203(e), substituted “leasing of associated real property (either within or outside the United States)” for “leasing of real property both within and without the continental limits of the United States” and provided for alteration, improvement, and repair of such property, without regard to section 278a

¹ So in original. Probably should not be capitalized.

² See References in Text note below.

of title 40, and for acquisition of such property or interests therein which are outside the United States without regard to section 255 of title 40 if the sufficiency of the title to such property or interests therein is approved by the Director.

Par. (5). Pub. L. 96-60, §203(b)(1), struck out provision for employment of aliens within the United States limited to services related to the translation or narration of colloquial speech in foreign languages when suitably qualified United States citizens were not available, now covered in section 1474(1) of this title, and inserted "pertinent" before "appropriation".

1961—Par. (6). Pub. L. 87-139 substituted provisions authorizing payment of transportation and other expenses as authorized by section 73b-2 of title 5, for provisions which allowed payment of actual transportation expenses and a maximum of \$10 per diem.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-60, title II, §209, Aug. 15, 1979, 93 Stat. 402, provided that: "The amendments made by sections 203 and 204 [enacting section 1469 and section 1477b of this title, amending this section, sections 1474, 1475a, 2454, 2458, and 2458a of this title, section 1304 of Title 5, Government Organization and Employees, and section 474 of former Title 40, Public Buildings, Property, and Works, and repealing section 1434 of this title] shall take effect on October 1, 1979, and to the extent that they provide new authorities involving the expenditure of appropriated funds, shall apply only with respect to funds appropriated after the date of enactment of this Act [Aug. 15, 1979]."

TRANSFER OF FUNCTIONS

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in par. (3) pursuant to section 303(b) of Pub. L. 97-241, set out as a note under section 1461 of this title, which redesignated International Communication Agency, and Director thereof, as United States Information Agency, and the Director thereof. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

The Commission on Educational Exchange, created by section 1466 of this title, abolished pursuant to Pub. L. 87-256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538.

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 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.

CONTRACTOR REQUIREMENTS

Pub. L. 100-204, title IV, §403, Dec. 22, 1987, 101 Stat. 1381, provided that:

"(a) FINDINGS.—The Congress finds that the overriding national security aspects of the \$1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

"(b) RESPONSIVE BID.—A bid shall not be treated as a responsive bid for purposes of the facilities moderniza-

tion program of the Voice of America unless the bidder can establish that the United States goods and services content, excluding consulting and management fees, of his proposal and the resulting contract will not be less than 55 percent of the value of his proposal and the resulting total contract.

"(c) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization program of the Voice of America, including design and construction projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons and qualified United States joint venture persons shall be considered to be reduced by 10 percent.

"(d) EXCEPTION.—

"(1) Subsection (c) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

"(A) precluded by the terms of an international agreement with the host foreign country;

"(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

"(i) its national public radio and television sector, or

"(ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority; or

"(C) the Secretary of Commerce certifies (in advance of the award of the contract for that project) to the Director of the United States Information Agency that the foreign bidder is not receiving any direct subsidy from any government, the effect of which would be to disadvantage the competitive position of United States persons who also bid on the project; or

"(D) the statutes of a host foreign country prohibit the use of United States contractors on such projects within that country.

"(2) An exception under paragraph (1)(D) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

"(d) [sic] DEFINITIONS.—For purposes of this section—

"(1) the term 'United States person' means a person that—

"(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

"(B) has its principal place of business in the United States;

"(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

"(D) has proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project similar in nature and technical complexity to that being contracted for;

"(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

"(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

“(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

“(F) has the existing technical and financial resources in the United States to perform the contract; and

“(2) the term ‘qualified United States joint venture person’ means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

“(e) EFFECTIVE DATE.—The provisions of this section shall apply to any project with respect to which the Request For Proposals (commonly referred to as ‘RFP’) or the Invitation For Bids (commonly referred to as ‘IFB’) was issued after December 28, 1986.”

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

§ 1472. Department of State and other Government agencies

(a) Authority of agencies

In carrying on activities which further the purposes of this chapter, subject to approval of such activities by the Secretary, the Department and the other Government agencies are authorized—

(1) to place orders and make purchases and rentals of materials and equipment;

(2) to make contracts, including contracts with governmental agencies, foreign or domestic, including subdivisions thereof, and intergovernmental organizations of which the United States is a member, and, with respect to contracts entered into in foreign countries, without regard to section 6306 of title 41;

(3) under such regulations as the Secretary may prescribe, to pay the transportation expenses, and not to exceed \$10 per diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized Government Travel Regulations and the Subsistence Expense Act of 1926,¹ as amended; and

(4) to make grants for, and to pay expenses incident to, training and study.

(b) Contracts for telecommunication activities, etc.; availability of appropriations; cancellation costs

(1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

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

(B) the Director of the United States Information Agency determines that—

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

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

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

(2) 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 canceled 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.

(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to telecommunication activities, newswire services, and the distribution of books and other publications in foreign countries.

(4)(A) Notwithstanding the other provisions of this subsection, the Broadcasting Board of Governors is authorized to enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States.

(B) The authority of this paragraph may be exercised for a fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(Jan. 27, 1948, ch. 36, title VIII, § 802, 62 Stat. 12; Pub. L. 97-241, title III, § 304(b), Aug. 24, 1982, 96 Stat. 292; Pub. L. 103-236, title II, § 225, Apr. 30, 1994, 108 Stat. 423; Pub. L. 107-228, div. A, title V, § 503, Sept. 30, 2002, 116 Stat. 1392.)

REFERENCES IN TEXT

The Subsistence Expenses Act of 1926, as amended, referred to in subsec. (a)(3), was repealed and superseded by the Travel Expense Act of 1949, which is covered by subchapter I of chapter 57 of Title 5, Government Organization and Employees. Section 9(a) of the 1949 Act provided in part: “All Acts . . . applicable to civilian officers or employees of the departments and establishments, providing for reimbursement of actual travel or transportation expense, and all other Acts, general or special, which are in conflict with the provisions of this Act . . . are hereby modified, but only to the extent of inconsistency or conflict with the provisions of this Act . . .”.

CODIFICATION

In subsec. (a)(2), “section 6306 of title 41” substituted for “section 3741 of the Revised Statutes (41 U.S.C. 22)” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2002—Subsec. (b)(4)(A). Pub. L. 107-228 substituted “Broadcasting Board of Governors” for “United States Information Agency” and inserted before period “and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States”.

1994—Subsec. (b)(4). Pub. L. 103-236 added par. (4).

1982—Pub. L. 97-241 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

Broadcasting Board of Governors renamed United States Agency for Global Media pursuant to section 6204(a)(22) of this title. The renaming was effectuated by notice to congressional appropriations committees dated May 24, 2018, and became effective Aug. 22, 2018.

¹ See References in Text note below.