

lows: "Funds made available under this chapter may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States, and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment."

1985—Subsec. (g). Pub. L. 99-83 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (e). Pub. L. 96-533, §705(a), authorized use of funds for procurement of a commodity outside the United States when the commodity to be financed could not reasonably be procured in the United States in fulfillment of objectives of a particular assistance program under which such commodity procurement is to be financed.

Subsec. (g). Pub. L. 96-533, §705(b), added subsec. (g).

1968—Subsec. (f). Pub. L. 90-554 added subsec. (f).

1966—Subsec. (c). Pub. L. 89-583, §301(b)(1), struck out "surplus" before "agricultural commodity" in three places and inserted "or products thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended," after "commodity" where first appearing.

Subsec. (e). Pub. L. 89-583, §301(b)(2), added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

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.

§ 2355. Retention and use of certain items and funds

(a) Commodities and defense articles; disposal to prevent spoilage or wastage or to conserve usefulness; funds realized from disposal or transfer

Any commodities and defense articles procured to carry out this chapter shall be retained by, or upon reimbursement, transferred to, and for the use of, such agency of the United States Government as the President may determine in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby, or whenever such retention is called for by concurrent resolution. Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve the usefulness thereof. Funds re-

alized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

(b) Commodities transferred as repayment of assistance

Whenever commodities are transferred to the United States Government as repayment of assistance under this chapter, such commodities may be used in furtherance of the purposes and within the limitations of this chapter.

(c) Funds realized as result of illegal transactions

Funds realized as a result of any failure of a transaction financed under authority of subchapter I of this chapter to conform to the requirements of this chapter, or to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under authority of subchapter I of this chapter, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

(d) Funds realized from sale, transfer, or disposal of returned defense articles

Funds realized by the United States Government from the sale, transfer, or disposal of defense articles returned to the United States Government by a recipient country or international organization as no longer needed for the purpose for which furnished shall be credited to the respective appropriation, fund, or account used to procure such defense articles or to the appropriation, fund, or account currently available for the same general purpose.

(Pub. L. 87-195, pt. III, §605, Sept. 4, 1961, 75 Stat. 440; Pub. L. 89-171, pt. III, §301(a), Sept. 6, 1965, 79 Stat. 658.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), 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

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.

AMENDMENTS

1965—Subsecs. (c), (d). Pub. L. 89-171 added subsecs. (c) and (d).

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.

§ 2356. Patents and technical information

(a) Practice of invention or disclosure of information; suits against United States for reasonable compensation; jurisdiction; limitation of action; defenses

Whenever, in connection with the furnishing of assistance under this chapter—

(1) an invention or discovery covered by a patent issued by the United States Government is practiced within the United States without the authorization of the owner, or

(2) information, which is (A) protected by law, and (B) held by the United States Government subject to restrictions imposed by the owner, is disclosed by the United States Government or any of its officers, employees, or agents in violation of such restrictions,

the exclusive remedy of the owner, except as provided in subsection (b) of this section, is to sue the United States Government for reasonable and entire compensation for such practice or disclosure in the district court of the United States for the district in which such owner is a resident, or in the United States Court of Federal Claims, within six years after the cause of action arises. Any period during which the United States Government is in possession of a written claim under subsection (b) of this section before mailing a notice of denial of that claim does not count in computing the six years. In any such suit, the United States Government may plead any defense that may be pleaded by a private person in such an action. The last paragraph of section 1498(a) of title 28 shall apply to inventions and information covered by this section.

(b) Settlement of claims

Before suit against the United States Government has been instituted, the head of the agency of the United States Government concerned may settle and pay any claim arising under the circumstances described in subsection (a) of this section. No claim may be paid under this subsection unless the amount tendered is accepted by the claimant in full satisfaction.

(c) Drug products manufactured outside the United States

Funds appropriated pursuant to this chapter shall not be expended by the United States Government for the acquisition of any drug product or pharmaceutical product manufactured outside the United States if the manufacture of such drug product or pharmaceutical product in the United States would involve the use of, or be covered by, an unexpired patent of the United States which has not previously been held invalid by an unappealed or unappealable judgment or decree of a court of competent jurisdiction, unless such manufacture is expressly authorized by the owner of such patent.

(Pub. L. 87-195, pt. III, § 606, Sept. 4, 1961, 75 Stat. 440; Pub. L. 97-164, title I, § 160(a)(6), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), 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.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Subsec. (a). Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 2357. Furnishing of services and commodities

(a) Advance-of-funds or reimbursement basis

Whenever the President determines it to be consistent with and in furtherance of the purposes of subchapter I of this chapter and within the limitations of this chapter, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Agency for International Development (including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available). Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

(1) Advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered.

(2) Advances or reimbursements received pursuant to agreements executed under this section in which reimbursement will not be completed within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered: *Provided*, That such agreements require the payment of interest at the current rate established pursuant to section 635(b)(1)(B) of title 12, and repayment of such principal and interest does not exceed a period of three years from the date of signing of the agreement to provide the service: *Provided further*, That funds available for this paragraph in any fiscal year shall not exceed \$1,000,000 of the total funds authorized for use in such fiscal year by part I of subchapter I of this chapter, and shall be available only to the extent provided in appropriation Acts. Interest shall accrue as of the date of disbursement to the agency or organization providing such services.