

agency or official except as provided in this chapter.

(d) Criteria for determination

Any determination concerning the location of a chancery under subsection (b)(2), or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulation or map, shall be based solely on the following criteria:

(1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

(2) Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

(3) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(5) The municipal interest, as determined by the Mayor of the District of Columbia.

(6) The Federal interest, as determined by the Secretary.

(e) Consistency of regulations, proceedings, and other actions; review and comment by National Planning Commission

(1) Regulations, proceedings, and other actions of the National Capital Planning Commission, the Zoning Commission for the District of Columbia, and the Board of Zoning Adjustment affecting the location, replacement, or expansion of chanceries shall be consistent with this section (including the criteria set out in subsection (d)) and shall reflect the policy of this chapter.

(2) Proposed actions of the Zoning Commission concerning implementation of this section shall be referred to the National Capital Planning Commission for review and comment.

(f) Rule-making nature of proceedings

Regulations issued to carry out this section shall provide for proceedings of a rule-making and not of an adjudicatory nature.

(g) Compliance with District of Columbia building and related codes

The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

(h) Approval of Board of Zoning Adjustment or Zoning Commission not required

Approval by the Board of Zoning Adjustment or the Zoning Commission or, except as provided

in section 4305 of this title, by any other agency or official is not required—

(1) for the location, replacement, or expansion of a chancery to the extent that authority to proceed, or rights or interests, with respect to such location, replacement, or expansion were granted to or otherwise acquired by the foreign mission before October 1, 1982; or

(2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on October 1, 1982.

(i) Membership on Zoning Commission and Board of Zoning Adjustment

(1) The President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services (or such alternate as such official may from time to time designate) to serve as a member of the Zoning Commission in lieu of the Director of the National Park Service whenever the President determines that the Zoning Commission is performing functions concerning the implementation of this section.

(2) Whenever the Board of Zoning Adjustment is performing functions regarding an application by a foreign mission with respect to the location, expansion, or replacement of a chancery—

(A) the representative from the Zoning Commission shall be the Director of the National Park Service or if another person has been designated under paragraph (1) of this subsection, the person so designated; and

(B) the representative from the National Capital Planning Commission shall be the Executive Director of that Commission.

(j) Application of other laws

Provisions of law (other than this chapter) applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with this section.

(Aug. 1, 1956, ch. 841, title II, §206, as added Pub. L. 97-241, title II, §202(b), Aug. 24, 1982, 96 Stat. 286.)

EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 204 of Pub. L. 97-241, set out as a note under section 4301 of this title.

§ 4307. Preemption

Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this chapter. Nothing in section 4302, 4303, 4304, or 4305 of this title may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a benefit for a foreign mission within the jurisdiction of a particular State or local government shall be controlling.

(Aug. 1, 1956, ch. 841, title II, §207, as added Pub. L. 97-241, title II, §202(b), Aug. 24, 1982, 96 Stat. 288.)

EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 204 of Pub. L. 97-241, set out as a note under section 4301 of this title.

§ 4308. General provisions**(a) Issuance of regulations**

The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this chapter.

(b) Discharge of obligation; liability

Compliance with any regulation, instruction, or direction issued by the Secretary under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued by the Secretary under this chapter.

(c) Use of employees from other Federal agencies; experts and consultants

For purposes of administering this chapter—

(1) the Secretary may accept details and assignments of employees of Federal agencies to the Department of State on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency); and

(2) the Secretary may, to the extent necessary to obtain services without delay, exercise his authority to employ experts and consultants under section 3109 of title 5 without requiring compliance with such otherwise applicable requirements for that employment as the Secretary may determine, except that such employment shall be terminated after 60 days if by that time those requirements are not complied with.

(d) Contracts and subcontracts for supplies and services; advertisement; factors considered

Contracts and subcontracts for supplies or services, including personal services, made by or on behalf of the Secretary shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed \$10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatibility of the supplies or services with implementation of this chapter.

(e) Transfer or loan of property to or from Department of State

The head of any Federal agency may, for purposes of this chapter—

(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Department of State (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

(2) acquire and accept services from the Department of State, including (whenever the Secretary determines it to be in furtherance of the purposes of this chapter) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

(f) Attachment, execution, etc., of assets

Assets of or under the control of the Department of State, wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

(g) Discretion of Secretary

Except as otherwise provided, any determination required under this chapter shall be committed to the discretion of the Secretary.

(h) Transfer and credit of funds

(1) In order to implement this chapter, the Secretary may transfer to the working capital fund established by section 2684 of this title such amounts available to the Department of State as may be necessary.

(2) All revenues, including proceeds from gifts and donations, received by the Secretary in carrying out this chapter may be credited to the working capital fund established by section 2684 of this title and shall be available for purposes of this chapter in accordance with that section.

(3) Only amounts transferred or credited to the working capital fund established by section 2684 of this title may be used in carrying out the functions of the Secretary or the Director under this chapter.

(Aug. 1, 1956, ch. 841, title II, § 208, as added Pub. L. 97-241, title II, § 202(b), Aug. 24, 1982, 96 Stat. 288; amended Pub. L. 103-236, title I, § 162(o)(6), Apr. 30, 1994, 108 Stat. 410.)

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103-236, § 162(o)(6)(B), substituted “Department of State” for “Office of Foreign Missions”.

Subsec. (d). Pub. L. 103-236, § 162(o)(6)(A), substituted “behalf of the Secretary” for “behalf of the Director”.

Subsecs. (e), (f). Pub. L. 103-236, § 162(o)(6)(B), substituted “Department of State” for “Office of Foreign Missions” wherever appearing.

Subsec. (h)(2). Pub. L. 103-236, § 162(o)(6)(C), struck out “Director or the” after “received by the”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of this title.