

(5) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(Pub. L. 102-259, §10, as added Pub. L. 105-156, §6(b), Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105-277, div. A, §101(h) [title V, §517(c)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-512; Pub. L. 116-94, div. P, title III, §306, Dec. 20, 2019, 133 Stat. 3190.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 102-259 was renumbered section 12 and is classified to section 5608 of this title.

AMENDMENTS

2019—Subsec. (b). Pub. L. 116-94 substituted “National Center” for “Institute”.

1998—Subsec. (b). Pub. L. 105-277 inserted before period at end “, including not to exceed \$1,000 annually for official reception and representation expenses”.

§ 5607b. Use of the National Center by Federal agency or other entity**(a) Authorization**

A Federal agency may use the Foundation and the National Center to provide assessment, mediation, collaboration, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources, or with a Federal, State, or tribal process or procedure that may result in a dispute or conflict.

(b) Payment**(1) In general**

A Federal agency may enter into a contract and expend funds to obtain the services of the National Center.

(2) Payment into Environmental Dispute Resolution Fund

A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(c) Notification and concurrence**(1) Notification**

An agency or instrumentality of the Federal Government shall notify the chairperson of the President’s Council on Environmental Quality when using the Foundation or the National Center to provide the services described in subsection (a).

(2) Notification descriptions

In a matter involving two or more agencies or instrumentalities of the Federal Government, notification under paragraph (1) shall include a written description of—

(A) the issues and parties involved;

(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues;

(C) all Federal agencies or instrumentalities with a direct interest or involvement in the matter and a statement that all Federal agencies or instrumentalities agree to mediation, collaboration, and dispute resolution; and

(D) other relevant information.

(3) Concurrence**(A) In general**

In a matter that involves two or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), the agencies or instrumentalities of the Federal Government shall obtain the concurrence of the chairperson of the President’s Council on Environmental Quality before using the Foundation or National Center to provide the services described in subsection (a).

(B) Indication of concurrence or nonconcurrence

The chairperson of the President’s Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice under paragraph (2).

(d) Exceptions**(1) Legal issues and enforcement****(A) In general**

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) that concern purely legal issues or matters, interpretation or determination of law, or enforcement of law by one agency against another agency shall not be submitted to the Foundation or National Center.

(B) Applicability

Subparagraph (A) does not apply to a dispute or conflict concerning—

(i) agency implementation of a program or project;

(ii) a matter involving two or more agencies with parallel authority requiring facilitation and coordination of the various Government agencies; or

(iii) a nonlegal policy or decisionmaking matter that involves two or more agencies that are jointly operating a project.

(2) Other mandated mechanisms or avenues

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) for which Congress by law has mandated another dispute resolution mechanism or avenue to address or resolve shall not be submitted to the Foundation or National Center.

(e) Non-Federal entities

(1) Non-Federal entities, including state¹ and local governments, Native American tribal governments, nongovernmental organizations and persons, as defined in section 1 of title 1, may use the Foundation and the National Center to provide assessment, mediation, or other related services in connection with a dispute or conflict involving the Federal government¹ related to the environment, public lands, or natural resources.

(2) PAYMENT INTO THE ENVIRONMENTAL DISPUTE RESOLUTION FUND.—Entities utilizing services

¹ So in original. Probably should be capitalized.

pursuant to this subsection shall reimburse the National Center for the costs of services provided. Such amounts shall be deposited into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(f) Agency management or control

Use of the Foundation or National Center to provide independent and impartial assessment, mediation, or other dispute or conflict resolution under this section shall not be considered to be the establishment or use of an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 102-259, § 11, as added Pub. L. 105-156, § 7, Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105-277, div. A, § 101(h) [title V, § 517(a)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-512; Pub. L. 111-90, § 9, Nov. 3, 2009, 123 Stat. 2978; Pub. L. 116-94, div. P, title III, § 307, Dec. 20, 2019, 133 Stat. 3190.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 11 of Pub. L. 102-259 was renumbered section 13 and is classified to section 5609 of this title.

AMENDMENTS

2019—Pub. L. 116-94, § 307(1), substituted “the National Center” for “the Institute” in section catchline.

Subsec. (a). Pub. L. 116-94, § 307(2), substituted “National Center” for “Institute” and “resources, or with a Federal, State, or tribal process or procedure that may result in a dispute or conflict.” for “resources.” and inserted “collaboration,” after “mediation.”

Subsec. (b)(1). Pub. L. 116-94, § 307(3), substituted “National Center” for “Institute”.

Subsec. (c)(1). Pub. L. 116-94, § 307(4)(A), substituted “National Center” for “Institute”.

Subsec. (c)(2)(C). Pub. L. 116-94, § 307(4)(B), inserted “mediation, collaboration, and” after “agree to”.

Subsec. (c)(3)(A). Pub. L. 116-94, § 307(4)(C), substituted “National Center” for “Institute”.

Subsec. (d)(1)(A), (2). Pub. L. 116-94, § 307(5), substituted “National Center” for “Institute”.

Subsec. (e). Pub. L. 116-94, § 307(6), substituted “National Center” for “Institute” in pars. (1) and (2).

Subsec. (f). Pub. L. 116-94, § 307(7), substituted “National Center” for “Institute”.

2009—Subsec. (f). Pub. L. 111-90 added subsec. (f).
1998—Pub. L. 105-277, § 101(h) [title V, § 517(a)(1)], inserted “or other entity” after “Federal agency” in section catchline.

Subsec. (e). Pub. L. 105-277, § 101(h) [title V, § 517(a)(2)], added subsec. (e).

§ 5608. Administrative provisions

(a) In general

In order to carry out the provisions of this chapter, the Foundation may—

(1)(A) appoint such personnel as may be necessary to carry out the provisions of this chapter, without regard to the provisions of title 5 governing appointments in the competitive service; and

(B) fix the compensation of the personnel appointed under subparagraph (A) at a rate not to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5, except that up to 4 em-

ployees (in addition to the Executive Director under section 5603(f)(2) of this title) may be paid at a rate determined by the Board in accordance with section 5383 of title 5.

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, solicit, administer, and utilize donations, grants, and gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 6101 of title 41;

(7) to¹ rent office space in the District of Columbia and Tucson, Arizona, or their environs; and

(8) make other necessary expenditures.

(b) The Institute

The authorities set forth above shall apply to the National Center established pursuant to section 5607a of this title and to the activities of the Foundation under section 5604(7) of this title.

(Pub. L. 102-259, § 12, formerly § 10, Mar. 19, 1992, 106 Stat. 83; renumbered § 12, Pub. L. 105-156, § 6(a), Feb. 11, 1998, 112 Stat. 9; amended Pub. L. 105-277, div. A, § 101(h) [title V, § 517(b)], Oct. 21, 1998, 112 Stat. 2681-480, 2681-512; Pub. L. 106-568, title VIII, § 817(b), Dec. 27, 2000, 114 Stat. 2918; Pub. L. 111-90, § 10, Nov. 3, 2009, 123 Stat. 2978; Pub. L. 116-94, div. P, title III, § 308, Dec. 20, 2019, 133 Stat. 3190.)

CODIFICATION

In subsec. (a)(6), “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

2019—Subsec. (a)(4). Pub. L. 116-94, § 308(1)(A), substituted “accept, hold, solicit, administer, and utilize donations, grants, and gifts” for “accept, hold, administer, and utilize gifts”.

Subsec. (a)(7). Pub. L. 116-94, § 308(1)(B), substituted “in the District of Columbia and Tucson, Arizona, or their environs” for “in the District of Columbia or its environs”.

Subsec. (b). Pub. L. 116-94, § 308(2), substituted “apply to the National Center” for “, with the exception of paragraph (4), apply to the Institute”.

¹ So in original. The word “to” probably should not appear.