

Editorial Notes

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-90 inserted before period at end “, including a reasonable amount for official reception and representation expenses, as determined by the Board, not to exceed \$5,000 for a fiscal year”.

2004—Subsec. (b). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in heading and in two places in text.

1998—Subsec. (a). Pub. L. 105-156 substituted “Trust Fund” for “Fund”.

§ 5607a. Environmental Dispute Resolution Fund**(a) Establishment**

There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 5609(b) of this title and amounts paid into the Fund under section 5607b of this title.

(b) Expenditures

The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the National Center, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary, including not to exceed \$1,000 annually for official reception and representation expenses.

(c) Distinction from Trust Fund

The Fund shall be maintained separately from the Trust Fund established under section 5606 of this title.

(d) Investment of amounts**(1) In general**

The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(2) Interest-bearing obligations

Investments may be made only in interest-bearing obligations of the United States.

(3) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

- (A) on original issue at the issue price; or
- (B) by purchase of outstanding obligations at the market price.

(4) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(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.)

Editorial Notes

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 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 chapter 10 of title 5.

(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; Pub. L. 117-286, § 4(a)(151), Dec. 27, 2022, 136 Stat. 4322.)

Editorial Notes

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

2022—Subsec. (f). Pub. L. 117-286 substituted “chapter 10 of title 5.” for “the Federal Advisory Committee Act (5 U.S.C. App.).”

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 employees (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

¹ So in original. Probably should be capitalized.