

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.

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.)

Editorial Notes

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”.

2009—Subsec. (a)(1). Pub. L. 111-90, §10(1), added par. (1) and struck out former par. (1) which read as follows: “appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Director be compensated at a rate

to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5;”.

Subsec. (a)(7), (8). Pub. L. 111-90, §10(2)-(4), added par. (7) and redesignated former par. (7) as (8).

2000—Subsec. (b). Pub. L. 106-568 inserted before period at end “and to the activities of the Foundation under section 5604(7) of this title”.

1998—Pub. L. 105-277 designated existing provisions as subsec. (a) and added subsec. (b).

§ 5609. Authorization of appropriations

(a) Trust Fund

There is authorized to be appropriated to the Trust Fund \$2,000,000 for each of fiscal years 2020 through 2029 to carry out the provisions of this chapter.

(b) Environmental Dispute Resolution Fund

There is authorized to be appropriated to the Environmental Dispute Resolution Fund established by section 5607a of this title \$4,000,000 for each of fiscal years 2020 through 2029, of which—

(1) \$3,000,000 shall be used to pay operations costs (including not more than \$1,000 for official reception and representation expenses); and

(2) \$1,000,000 shall be used for grants or other appropriate arrangements to pay the costs of services provided in a neutral manner relating to, and to support the participation of non-Federal entities (such as State and local governments, tribal governments, nongovernmental organizations, and individuals) in, environmental conflict resolution proceedings involving Federal agencies.

(c) Training of professionals in health care and public policy

There is authorized to be appropriated to carry out section 5604(7) of this title \$12,300,000 for the 5-fiscal year period beginning with fiscal year 2025.

(Pub. L. 102-259, §13, formerly §11, Mar. 19, 1992, 106 Stat. 84; renumbered §13 and amended Pub. L. 105-156, §6(a), 8, Feb. 11, 1998, 112 Stat. 9, 12; Pub. L. 106-568, title VIII, §817(c), Dec. 27, 2000, 114 Stat. 2918; Pub. L. 108-160, §2, Dec. 6, 2003, 117 Stat. 2013; Pub. L. 116-94, div. P, title III, §309, Dec. 20, 2019, 133 Stat. 3191; Pub. L. 118-47, div. G, title II, §203, Mar. 23, 2024, 138 Stat. 858.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a). Pub. L. 118-47, §203(1), substituted “2029” for “2023”.

Subsec. (b). Pub. L. 118-47, §203(2), substituted “2029” for “2023” in introductory provisions.

Subsec. (c). Pub. L. 118-47, §203(3), substituted “5-fiscal year period beginning with fiscal year 2025.” for “5-fiscal year period beginning with the fiscal year in which this subsection is enacted.”

2019—Subsec. (a). Pub. L. 116-94, §309(1), substituted “\$2,000,000 for each of fiscal years 2020 through 2023” for “\$40,000,000”.

Subsec. (b). Pub. L. 116-94, §309(2), substituted “fiscal years 2020 through 2023” for “fiscal years 2004 through 2008”.

2003—Subsec. (b). Pub. L. 108-160 added subsec. (b) and struck out former subsec. (b) which read as follows:

“There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 5607a of this title—

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