

States Government, or (2) it has been determined in the same manner as provided for surplus property in section 549(a) to (e) of title 40, that such property is not needed for donation pursuant to those subsections. The foregoing restrictions shall not apply to the transfer in any fiscal year for use pursuant to the provisions of subchapter I of this chapter of amounts of such property with a total original acquisition cost to the United States Government not exceeding \$45,000,000.

(Pub. L. 87–195, pt. III, § 608, Sept. 4, 1961, 75 Stat. 441; Pub. L. 89–583, pt. III, § 301(c), Sept. 19, 1966, 80 Stat. 804; Pub. L. 90–137, pt. III, § 301(b), Nov. 14, 1967, 81 Stat. 458; Pub. L. 95–424, title I, § 102(g)(2)(C), Oct. 6, 1978, 92 Stat. 942; Pub. L. 97–113, title VII, § 701, Dec. 29, 1981, 95 Stat. 1543.)

#### Editorial Notes

##### CODIFICATION

In text, “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for references to the Federal Property and Administrative Services Act of 1949, as amended, on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a), “section 1535(d) of title 31” substituted for “section 1210 of the General Appropriation Act, 1951 (64 Stat. 765) [31 U.S.C. 686–1]” on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (b), “section 549(a) to (e) of title 40” substituted for “section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended” and “those subsections” substituted for “that subsection” on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

##### AMENDMENTS

1981—Subsec. (a). Pub. L. 97–113 authorized for subchapter I assistance use of property already owned by an agency of the United States (if a substantial savings would occur) as supplementary to procurement of new items for United States-assisted projects and programs and use of separate account funds for payment of costs of any property available from an agency of the United States.

1978—Subsec. (a). Pub. L. 95–424 substituted “part 1 of subchapter 1 of this chapter” for “section 2172 of this title”.

1967—Subsec. (a). Pub. L. 90–137 required, in furnishing assistance under subchapter I of this chapter, utilization of excess personal property wherever practicable in lieu of new items for United States-assisted projects and programs.

1966—Subsec. (a). Pub. L. 89–583 permitted personnel costs attributable to the excess property program to be charged to the separate account for the advance acquisition of property.

#### Statutory Notes and Related Subsidiaries

##### 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.

##### REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

#### Executive Documents

##### 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.

**§ 2359. Repealed. Pub. L. 105–277, div. A, § 101(d) [title V, § 533(a)(5)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–180**

Section, Pub. L. 87–195, pt. III, § 609, Sept. 4, 1961, 75 Stat. 442, related to special accounts for proceeds from sales of commodities furnished on a grant basis.

#### § 2360. Transfer of funds between accounts

##### (a) Necessity of transfer; limitations

Whenever the President determines it to be necessary for the purposes of this chapter, not to exceed 10 per centum of the funds made available for any provision of this chapter (except funds made available pursuant to subpart IV of part II of subchapter I of this chapter or for section 2763 of this title) may be transferred to, and consolidated with, the funds made available for any provision of this chapter (except funds made available under part II of subchapter II of this chapter), and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision.

##### (b) Augmentation of other appropriations

The authority contained in this section and in sections 2261, 2318 and 2364 of this title, shall not be used to augment appropriations made available pursuant to sections 2396(g)(1) and 2397 of this title or used otherwise to finance activities which normally would be financed from appropriations for administrative expenses.

##### (c) Military and development assistance purposes

Any funds which the President has notified Congress pursuant to section 2413 of this title that he intends to provide in military assistance to any country may be transferred to, and consolidated with, any other funds he has notified Congress pursuant to such section that he intends to provide to that country for development assistance purposes.

(Pub. L. 87–195, pt. III, § 610, Sept. 4, 1961, 75 Stat. 442; Pub. L. 87–565, pt. III, § 301(a), Aug. 1, 1962, 76 Stat. 260; Pub. L. 89–371, § 3, Mar. 18, 1966, 80 Stat. 74; Pub. L. 89–583, pt. III, § 301(d), Sept. 19, 1966, 80 Stat. 804; Pub. L. 90–137, pt. III, § 301(c), Nov. 14, 1967, 81 Stat. 458; Pub. L. 91–175, pt. III,

§ 301, Dec. 30, 1969, 83 Stat. 820; Pub. L. 93-559, § 19(a), Dec. 30, 1974, 88 Stat. 1800; Pub. L. 95-384, § 10(b)(2), Sept. 26, 1978, 92 Stat. 735; Pub. L. 101-623, § 10(a), Nov. 21, 1990, 104 Stat. 3356.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, 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

1990—Subsec. (a). Pub. L. 101-623 inserted “or for section 2763 of this title” after “subchapter I of this chapter” and struck out “other” after second reference to “funds made available for any”.

1978—Subsec. (b). Pub. L. 95-384 struck out provisions authorizing transfer and consolidation of not to exceed \$9,000,000 of the funds appropriated under section 2242 of this title with the funds appropriated under section 2397(a) of this title to be available solely for additional administrative expenses incurred in connection with programs in Vietnam.

1974—Subsec. (a). Pub. L. 93-559, § 19(a)(1), inserted provisions excepting funds made available under part II of subchapter II of this chapter from the designation of funds subject to consolidation.

Subsec. (c). Pub. L. 93-559, § 19(a)(2), added subsec. (c).

1969—Subsec. (a). Pub. L. 91-175 inserted provision excepting funds made available pursuant to subpart IV of part II of subchapter I of this chapter from the designation of funds subject to consolidation.

1967—Subsec. (b). Pub. L. 90-137 increased limitation on funds available for transfer from \$5,000,000 to \$9,000,000.

1966—Subsec. (b). Pub. L. 89-583 substituted provisions authorizing transfer of \$5,000,000 for administrative expenses for any fiscal year incurred in connection with programs in Vietnam for provisions authorizing transfer of \$1,400,000 for administrative expenses for fiscal year 1966 incurred in connection with programs in the Republic of Vietnam.

Pub. L. 89-371 authorized transfer of \$1,400,000 for administrative expenses for fiscal year 1966 incurred in connection with programs in the Republic of Vietnam.

1962—Pub. L. 87-565 designated existing provisions as subsec. (a) and added subsec. (b).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-623, § 10(b), Nov. 21, 1990, 104 Stat. 3356, provided that: “The amendments made by subsection (a) [amending this section] apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.”

### Executive Documents

#### 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.

### § 2361. Completion of plans and cost estimates

#### (a) Restriction on agreements or grants

No agreement or grant which constitutes an obligation of the United States Government in excess of \$500,000 under section 1501 of title 31 shall be made for any assistance authorized under part I of subchapter I of this chapter, sub-

part II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter—

(1) if such agreement or grant requires substantive technical or financial planning, until engineering, financial, and other plans necessary to carry out such assistance, and a reasonably firm estimate of the cost to the United States Government of providing such assistance, have been completed; and

(2) if such agreement or grant requires legislative action within the recipient country, unless such legislative action may reasonably be anticipated to be completed in time to permit the orderly accomplishment of the purposes of such agreement or grant.

#### (b) Plans for water or related land resource construction projects; computation of benefits and costs

Plans required under subsection (a) of this section for any water or related land resource construction project or program shall include a computation of benefits and costs made insofar as practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto.

#### (c) Contracts for construction outside United States; competitive basis

To the maximum extent practicable, all contracts for construction outside the United States made in connection with any agreement or grant subject to subsection (a) of this section shall be made on a competitive basis.

#### (d) Engineering, financial, and other plans

Subsection (a) of this section shall not apply to any assistance furnished for the sole purpose of preparation of engineering, financial, and other plans.

#### (e) Certification of country capability to maintain and utilize projects as prerequisite to assistance for capital projects exceeding cost limitations

In addition to any other requirements of this section, no assistance authorized under part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter shall be furnished with respect to any capital assistance project estimated to cost in excess of \$1,000,000 until the head of the agency primarily responsible for administering subchapter I of this chapter has received and taken into consideration a certification from the principal officer of such agency in the country in which the project is located as to the capability of the country (both financial and human resources) to effectively maintain and utilize the project taking into account among other things the maintenance and utilization of projects in such country previously financed or assisted by the United States.

(Pub. L. 87-195, pt. III, § 611, Sept. 4, 1961, 75 Stat. 442; Pub. L. 87-565, pt. III, § 301(b), Aug. 1, 1962, 76 Stat. 260; Pub. L. 88-205, pt. III, § 301(c), Dec. 16, 1963, 77 Stat. 385; Pub. L. 90-137, pt. II, § 301(d), Nov. 14, 1967, 81 Stat. 458; Pub. L. 95-424, title I, § 102(g)(2)(D), (E), Oct. 6, 1978, 92 Stat. 943; Pub. L. 96-53, title I, § 117, Aug. 14, 1979, 93 Stat. 365;