

§ 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;

Pub. L. 99-83, title XII, §§1208, 1211(b)(2), Aug. 8, 1985, 99 Stat. 278, 279.)

### Editorial Notes

#### REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (b), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, which is classified generally to chapter 19B (§1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

#### AMENDMENTS

1985—Subsec. (a). Pub. L. 99-83, §1208(1), substituted “\$500,000” for “\$100,000”.

Pub. L. 99-83, §1211(b)(2), substituted reference to section 1501 of title 31, for reference to section 1311 of the Supplemental Appropriation Act, 1955.

Subsec. (b). Pub. L. 99-83, §1208(2), substituted “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” for “the procedures set forth in the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973, with respect to such computations”.

1979—Subsec. (b). Pub. L. 96-53 substituted “Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973” for “Memorandum of the President dated May 15, 1962”.

1978—Subsec. (a). Pub. L. 95-424, §102(g)(2)(D), substituted “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” for “subparts I, II, and VI of part II and part IV of subchapter I of this chapter”.

Subsec. (e). Pub. L. 95-424, §102(g)(2)(E), substituted “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” for “subparts I, II, or VI of part II or part IV of subchapter I of this chapter”.

1967—Subsec. (e). Pub. L. 90-137 added subsec. (e).

1963—Subsec. (b). Pub. L. 88-205 substituted “the Memorandum of the President dated May 15, 1962,” for “circular A-47 of the Bureau of the Budget.”

1962—Subsec. (a). Pub. L. 87-565 included subpart VI of part II of subchapter I of this chapter within the restriction.

### 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 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as a note under section 2151 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.

### § 2362. Use of foreign currencies

#### (a) Currencies received in payment for non-military assistance; foreign obligations

Except as otherwise provided in this chapter or other Acts, foreign currencies received either (1) as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, and unobligated on September 3, 1961, or (2) on or after September 4, 1961, as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, or (3) as a result of the furnishing of assistance under subchapter I of this chapter, which are in excess of amounts reserved under authority of section 2455(d) of this title or any other Act relating to educational and cultural exchanges, may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States, and the United States dollars received as reimbursement shall be deposited into miscellaneous receipts of the Treasury. Foreign currencies so received which are in excess of the amounts so reserved and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President, shall be available for the authorized purposes of subchapter I of this chapter in such amounts as may be specified from time to time in appropriation Acts.

#### (b) United States operations abroad; excess foreign currencies

Any Act of the Congress making appropriations to carry out programs under this chapter or any other Act for United States operations abroad is hereby authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

As used in this subsection, the term “excess foreign currencies” means foreign currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the President to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits and are not prohibited from use under this subsection by an agreement entered into with the foreign country concerned.

The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available pursuant to this chapter shall not be expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.