

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (e), 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.

The Assignment of Claims Act of 1940, as amended, referred to in subsec. (e), means act Oct. 9, 1940, ch. 779, 54 Stat. 1029, which added the second and third pars. to section 203 of former Title 31, Money and Finance, and the second and third pars. to section 15 of former Title 41, Public Contracts. Section 203 of former Title 31 was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as section 3727 of Title 31, Money and Finance. Such second and third pars. were restated in section 3727(b) (last sentence) and (c) of Title 31. Section 15 of former Title 41 was amended generally by Pub. L. 103-355, title II, §2451, Oct. 13, 1994, 108 Stat. 3324, and was repealed and restated as section 6305 of Title 41, Public Contracts, by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

Section 1782(a) of this title, referred to in subsec. (f), was repealed by Pub. L. 87-195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460.

AMENDMENTS

1989—Subsec. (d). Pub. L. 101-165 inserted at end of second sentence “(other than salaries of the Armed Forces of the United States and unfunded estimated costs of civilian retirement and other benefits)”.

1988—Subsec. (c). Pub. L. 100-690 inserted “or, in the case of services procured from the Department of Defense to carry out part VIII of subchapter I of this chapter, the amount of the additional costs incurred by the Department of Defense in providing such services,” after “at actual cost.”.

1976—Subsec. (a). Pub. L. 94-329, §106(b)(4)(A), inserted “military education and training” after “articles”.

Subsec. (b). Pub. L. 94-329, §106(b)(4)(B), substituted “defense articles, or military education and training” for “and defense articles”.

Subsec. (e). Pub. L. 94-329, §106(b)(4)(A), inserted “military education and training” after “articles”.

1968—Subsec. (d). Pub. L. 90-629 struck out references to sections 2342 and 2343 of this title in the exception provision.

1967—Subsec. (d). Pub. L. 90-137 substituted reference to sections 2318, 2342, and 2343 for former reference to sections 2315 and 2318 of this title.

Statutory Notes and Related Subsidiaries

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

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.

CHANGE OF NAME

“Export-Import Bank of Washington” changed to “Export-Import Bank of the United States” in text to conform to such change in name in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, provided for in section 1(a) of Pub. L. 90-267, Mar. 13, 1968, 82 Stat. 47.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-629 effective July 1, 1968, see section 41 of Pub. L. 90-629, set out as an Effective Date note under section 2751 of this title.

ACCOUNTING ADJUSTMENTS BETWEEN APPROPRIATIONS

Charge of expenses to appropriation or account not affected by provisions for accounting adjustments between appropriations, see section 3 of Pub. L. 89-473, June 29, 1966, 80 Stat. 221, set out as a note under section 628a of Title 31, Money and Finance.

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.

§ 2393. Waiver of certain laws**(a) Contracts and expenditure of funds**

Whenever the President determines it to be in furtherance of the purposes of this chapter, the functions authorized under this chapter may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.)),¹ regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

(b) Neutrality laws

The functions authorized under subchapter II of this chapter may be performed without regard to such provisions as the President may specify of subchapter II of chapter 9 of this title.

(c) Assignment of personnel

Notwithstanding the provisions of sections 3544(b) and 8544(b)¹ of title 10, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this chapter.

(Pub. L. 87-195, pt. III, §633, Sept. 4, 1961, 75 Stat. 454.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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.

The Renegotiation Act of 1951, referred to in subsec. (a), is act Mar. 23, 1951, ch. 15, 65 Stat. 7, which was classified principally to section 1211 et seq. of the former Appendix to Title 50, War and National Defense, prior to its omission from the Code.

Sections 3544 and 8544 of title 10, referred to in subsec. (c), were repealed by Pub. L. 90-235, §4(a)(6), Jan. 2, 1968, 81 Stat. 759.

Statutory Notes and Related Subsidiaries

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include 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.

¹ See References in Text note below.

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.

EXECUTIVE ORDER NO. 10784

Ex. Ord. No. 10784, Oct. 1, 1958, 23 F.R. 7691, as amended by Ex. Ord. No. 10845, Oct. 12, 1959, 24 F.R. 8317, which specified laws from which functions authorized by this chapter shall be exempt, was superseded by Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out below.

EXECUTIVE ORDER NO. 10845

Ex. Ord. No. 10845 of Oct. 12, 1959, setting out laws from which authorized functions were exempt, was superseded by Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out below.

EX. ORD. NO. 11223. SPECIFICATION OF LAWS FROM WHICH FUNCTIONS AUTHORIZED BY THIS CHAPTER SHALL BE EXEMPT

Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, as amended by Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673; Ex. Ord. No. 12178, Dec. 10, 1979, 44 F.R. 71807; Ex. Ord. No. 13118, §10(10), Mar. 31, 1999, 64 F.R. 16599, provided:

By virtue of the authority vested in me by Section 633 of the Foreign Assistance Act of 1961, as amended, 75 Stat. 454 (22 U.S.C. 2393), it is hereby determined that, to the extent hereinafter indicated, the performance of functions authorized by that Act, as amended, and any predecessor legislation, without regard to the laws specified in the numbered subdivisions of Sections 1 and 2 of this order and without regard to consideration as specified in Sections 3 and 4 of this order will further the purposes of the Foreign Assistance Act of 1961, as amended [this chapter]:

SECTION 1. With respect to functions authorized by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), and any predecessor legislation except those functions exercised by the Department of Defense under authority of Sections 621 and 623 of the Foreign Assistance Act of 1961 (22 U.S.C. 2381 and 2383):

(1) The Act of March 26, 1934, 48 Stat. 500, as amended (15 U.S.C. 616a).

(2) Section 3648 of the Revised Statutes, as amended, 60 Stat. 809 (31 U.S.C. 529) [31 U.S.C. 3324].

(3) Section 305 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 396, as amended (41 U.S.C. 255).

(4) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

(5) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(6) Section 2 of title III of the Act of March 3, 1933, 47 Stat. 1520 (41 U.S.C. 10a).

(7) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(8) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)), but only with respect to contracts entered into with foreign governments or agencies thereof for the rendering of services to the United States or an agency thereof within the continental limits of the United States.

(9) Section 901(a) of the Merchant Marine Act, 1936, 49 Stat. 2015 as amended (46 U.S.C. [App.] 1241(a)) [now 46 U.S.C. 55302].

SEC. 2. With respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under the Foreign Assistance Act of 1961, as amended [this chapter], and any predecessor legislation:

(1) [Former] Section 2276(a) of title 10 of the United States Code.

(2) Section 2313(b) of title 10 of the United States Code [see 10 U.S.C. 3841(c)].

(3) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)).

(4) Section 1301 of the Second War Powers Act, 1942, 56 Stat. 185 ([former] 50 U.S.C. App. 643), as extended by the provisions of the Act of June 30, 1953, 67 Stat. 120.

(5) Section 3(b) of the Act of August 28, 1958, 72 Stat. 972 (50 U.S.C. 1433(b)), but only with respect to contracts in which the inclusion of the clause required by Section 3(b), or the compliance with that clause, if included in a contract, is deemed by the executive or military department concerned to be impracticable.

SEC. 3. With respect to cost-type contracts heretofore or hereafter made with non-profit institutions under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

SEC. 4. With respect to contracts heretofore or hereafter made, other than those described in Section 3 of this order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State or the Administrator of the United States Agency for International Development (with respect to functions vested in or delegated to the Administrator) determines in each case that such action is necessary to protect the foreign policy interests of the United States.

SEC. 5. Executive Order No. 10784 of October 1, 1958, and Executive Order No. 10845 of October 12, 1959, are hereby superseded.

SEC. 6. I determine it to be in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2151 *et seq.*], and in the national security interest of the United States that the functions authorized by chapter 7 of Part II of that Act [22 U.S.C. 2349 *et seq.*], relating to air base construction in Israel, be performed without regard to the following additional specified provisions of law:

(1) Title IX of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 541-544) [now 40 U.S.C. 1101-1104];

(2) Section 612 of the Military Construction Authorization Act, 1967, as amended (31 U.S.C. 723a) [10 U.S.C. 2661a(b)];

(3) Section 719 of the Defense Production Act of 1950, as amended ([former] 50 U.S.C. App. 2168); and

(4) Section 111 of the Federal Property and Administrative Services Act of 1949, as amended ([former] 40 U.S.C. 759).

DETERMINATION UNDER THIS SECTION WAIVING REQUIREMENTS WITH RESPECT TO CLOSE OUT OF PRIOR YEAR APPROPRIATIONS ACCOUNTS

Determination of President of the United States, No. 91-21, Feb. 27, 1991, 56 F.R. 10771, provided:

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 633(a) of the Foreign Assistance Act of 1961, as amended (the "Act"), 22 U.S.C. 2393(a), I hereby determine it to be in furtherance of the purposes of the Act [22 U.S.C. 2151 *et seq.*] that the functions authorized by the Act be performed without regard to section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) [amending sections 1551 to 1557 of Title 31, Money and Finance, repealing section 2782 of Title 10, Armed Forces, and enacting provisions set out as a note under section 1551 of Title 31], and amendments contained therein.

This determination shall apply only to funds appropriated to carry out the provisions of the Act that were

appropriated for fiscal year 1984 and for prior fiscal years, and shall suspend the application of the provisions of section 1405 of the National Defense Authorization Act for Fiscal Year 1991, and amendments contained therein, through September 30, 1992.

You are authorized and directed to publish this determination in the Federal Register.

GEORGE BUSH.

§ 2393a. Requests by Government Accountability Office and Congressional committees for documents and materials

None of the funds made available pursuant to the provisions of this chapter shall be used to carry out any provision of this chapter in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the Government Accountability Office or any committee of the Congress charged with considering legislation, appropriations or expenditures under this chapter, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the Government Accountability Office, or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or (2) a certification by the President that he has forbidden the furnishing thereof pursuant to request and his reason for so doing.

(Pub. L. 87-195, pt. III, §633A, as added Pub. L. 95-424, title V, §502(a)(1), Oct. 6, 1978, 92 Stat. 957; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

Editorial Notes

REFERENCES IN TEXT

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CODIFICATION

This section was formerly classified to subsec. (c) of section 2394 of this title prior to the complete revision of section 2394 of this title by Pub. L. 95-424, title V, §502(a)(2), Oct. 6, 1978, 92 Stat. 957.

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in two places.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95-424, set out as an Effective Date of 1978 Amendment 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.

§ 2394. Reports and information; definitions

(a) Annual report to Congress on programs having impact on developing countries; contents

In order that the Congress and the American people may be better and more currently informed regarding American foreign policy and the effectiveness of assistance provided by the United States Government to other countries and to international organizations, the Chairman of the Development Coordination Committee shall prepare and transmit to the Congress, no later than February 1 of each year, as a part of the annual presentation materials for foreign assistance, a report as described in this subsection. This report shall include—

(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

(B) an assessment of the impact of such policies and programs on the well-being of the poor majority in developing countries in accordance with the policy objectives of part I of subchapter I of this chapter, including increasing life expectancy and literacy, lowering infant mortality and birth rates, and increasing food production and employment, such assessment to include an evaluation of the extent to which programs under part I of subchapter I of this chapter directly benefit the poor majority; and

(C) an assessment of the impact of such policies and programs on economic conditions in the United States, including but not limited to employment, wages, and working conditions;

(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

(B) as presented to Congress for the immediate preceding fiscal year;

(C) as obligated during the immediately preceding fiscal year;

(D) as planned for the fiscal year in which the report is presented;

(E) as proposed for the fiscal year following the year in which the report is presented; and

(F) of any contract in excess of \$100,000 administered by the Agency for International Development which was entered into in the preceding fiscal year without competitive selection procedures, and the reasons for doing so;

(3) a summary of repayments, by country, to the United States from previous foreign assistance loans;