

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code:

1. The functions of the President under subsection 637(k) of the [Departments of] Commerce, Justice[,] and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Division B, Public Law 108-199) (22 U.S.C. 2394b(k)) (the “Act”) are assigned to the Secretary of State (Secretary).

2. The Administrator of the United States Agency for International Development shall provide support to assist the Secretary in the performance of functions assigned by this memorandum, and the heads of executive departments and agencies with information concerning assistance programs shall furnish promptly to the Secretary, consistent with applicable law, such information as the Secretary may request to assist in fulfillment of these responsibilities for the preparation of the report to which subsection 637(k) refers.

3. The Secretary shall coordinate the receipt by departments and agencies of requests from the HELP Commission under section 637(e) of the Act for information and their responses to such requests. Such departments and agencies shall provide relevant information and responses promptly. The Secretary shall ensure that such responses occur in a manner consistent with the President’s constitutional authority to withhold information that could impair foreign relations, national security, the deliberate processes of the Executive, or the performance of the Executive’s constitutional duties.

4. Heads of executive departments and agencies shall assist the Secretary in the implementation of this memorandum.

5. The Secretary is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 2394c. Information on covered United States foreign assistance programs

(a) Publication of information

(1) Update of existing website

Not later than 90 days after July 15, 2016, the Secretary of State shall update the Department of State’s website, “ForeignAssistance.gov”, to make publicly available comprehensive, timely, and comparable information on covered United States foreign assistance programs, including all information required under subsection (b) that is available to the Secretary of State.

(2) Information sharing

Not later than 2 years after July 15, 2016, and quarterly thereafter, the head of each Federal department or agency that administers covered United States foreign assistance shall provide the Secretary of State with comprehensive information about the covered United States foreign assistance programs carried out by such department or agency.

(3) Updates to website

Not later than 2 years after July 15, 2016, and quarterly thereafter, the Secretary of State shall publish, on the “ForeignAssistance.gov” website or through a successor online publication, the information provided under subsection (b).

(b) Matters to be included

(1) In general

The information described in subsection (a)—

(A) shall be published for each country on a detailed basis, such as award-by-award; or

(B) if assistance is provided on a regional level, shall be published for each such region on a detailed basis, such as award-by-award.

(2) Types of information

(A) In general

To ensure the transparency, accountability, and effectiveness of covered United States foreign assistance programs, the information described in subsection (a) shall include—

(i) links to all regional, country, and sector assistance strategies, annual budget documents, congressional budget justifications, and evaluations in accordance with section 3(c)(2)(J);

(ii) basic descriptive summaries for covered United States foreign assistance programs and awards under such programs; and

(iii) obligations and expenditures.

(B) Publication

Each type of information described in subparagraph (A) shall be published or updated on the appropriate website not later than 90 days after the date on which the information is issued.

(C) Rule of construction

Nothing in this paragraph may be construed to require a Federal department or agency that administers covered United States foreign assistance to provide any information that does not relate to, or is not otherwise required by, the covered United States foreign assistance programs carried out by such department or agency.

(3) Report in lieu of inclusion

(A) Health or security of implementing partners

If the head of a Federal department or agency, in consultation with the Secretary of State, makes a determination that the inclusion of a required item of information online would jeopardize the health or security of an implementing partner or program beneficiary or would require the release of proprietary information of an implementing partner or program beneficiary, the head of the Federal department or agency shall provide such determination in writing to the appropriate congressional committees, including the basis for such determination.

(B) National interests of the United States

If the Secretary of State makes a determination that the inclusion of a required item of information online would be detrimental to the national interests of the United States, the Secretary of State shall provide such determination, including the basis for such determination, in writing to the appropriate congressional committees.

(C) Form

Information provided under this paragraph may be provided in classified form, as appropriate.

(4) Failure to comply

If a Federal department or agency fails to comply with the requirements under para-

graph (1), (2), or (3) of subsection (a), or subsection (c), with respect to providing information described in subsection (a), and the information is not subject to a determination under subparagraph (A) or (B) of paragraph (3) not to make the information publicly available, the Director of the Office of Management and Budget, in consultation with the head of such department or agency, not later than one year after July 15, 2016, shall submit a consolidated report to the appropriate congressional committees that includes, with respect to each required item of information not made publicly available—

(A) a detailed explanation of the reason for not making such information publicly available; and

(B) a description of the department's or agency's plan and timeline for—

(i) making such information publicly available; and

(ii) ensuring that such information is made publicly available in subsequent years.

(c) Scope of information

The online publication required under subsection (a) shall, at a minimum—

(1) in each of the fiscal years 2016 through 2019, provide the information required under subsection (b) for fiscal years 2015 through the current fiscal year; and

(2) for fiscal year 2020 and each fiscal year thereafter, provide the information required under subsection (b) for the immediately preceding 5 fiscal years in a fully searchable form.

(d) Sense of Congress

It is the sense of Congress that the Secretary of State and the Administrator of the United States Agency for International Development should coordinate the consolidation of processes and data collection and presentation for the Department of State's website, "ForeignAssistance.gov", and the United States Agency for International Development's website, "Explorer.USAID.gov", to the extent that is possible to maximize efficiencies, no later than the end of fiscal year 2018.

(Pub. L. 114–191, §4, July 15, 2016, 130 Stat. 669.)

Editorial Notes

REFERENCES IN TEXT

Section 3(c)(2)(J), referred to in subsec. (b)(2)(A)(i), is section 3(c)(2)(J) of Pub. L. 114–191, which is set out as a note below.

CODIFICATION

Section was enacted as part of the Foreign Aid Transparency and Accountability Act of 2016, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

Statutory Notes and Related Subsidiaries

GUIDELINES FOR COVERED UNITED STATES FOREIGN ASSISTANCE PROGRAMS

Pub. L. 114–191, §3, July 15, 2016, 130 Stat. 667, provided that:

“(a) PURPOSES.—The purposes of this section are to—

“(1) evaluate the performance of covered United States foreign assistance and its contribution to the policies, strategies, projects, program goals, and priorities undertaken by the Federal Government;

“(2) support and promote innovative programs to improve effectiveness; and

“(3) coordinate the monitoring and evaluation processes of Federal departments and agencies that administer covered United States foreign assistance.

“(b) ESTABLISHMENT OF GUIDELINES.—Not later than 18 months after the date of the enactment of this Act [July 15, 2016], the President shall set forth guidelines, according to best practices of monitoring and evaluation studies and analyses, for the establishment of measurable goals, performance metrics, and monitoring and evaluation plans that can be applied with reasonable consistency to covered United States foreign assistance.

“(c) OBJECTIVES OF GUIDELINES.—

“(1) IN GENERAL.—The guidelines established pursuant to subsection (b) shall provide direction to Federal departments and agencies that administer covered United States foreign assistance on—

“(A) monitoring the use of resources;

“(B) evaluating the outcomes and impacts of covered United States foreign assistance projects and programs; and

“(C) applying the findings and conclusions of such evaluations to proposed project and program design.

“(2) OBJECTIVES.—The guidelines established pursuant to subsection (b) shall provide direction to Federal departments and agencies that administer covered United States foreign assistance on how to—

“(A) establish annual monitoring and evaluation objectives and timetables to plan and manage the process of monitoring, evaluating, analyzing progress, and applying learning toward achieving results;

“(B) develop specific project monitoring and evaluation plans, including measurable goals and performance metrics, and to identify the resources necessary to conduct such evaluations, which should be covered by program costs;

“(C) apply rigorous monitoring and evaluation methodologies to such programs, including through the use of impact evaluations, ex-post evaluations, or other methods, as appropriate, that clearly define program logic, inputs, outputs, intermediate outcomes, and end outcomes;

“(D) disseminate guidelines for the development and implementation of monitoring and evaluation programs to all personnel, especially in the field, who are responsible for the design, implementation, and management of covered United States foreign assistance programs;

“(E) establish methodologies for the collection of data, including baseline data to serve as a reference point against which progress can be measured;

“(F) evaluate, at least once in their lifetime, all programs whose dollar value equals or exceeds the median program size for the relevant office or bureau or an equivalent calculation to ensure the majority of program resources are evaluated;

“(G) conduct impact evaluations on all pilot programs before replicating, or conduct performance evaluations and provide a justification for not conducting an impact evaluation when such an evaluation is deemed inappropriate or impracticable;

“(H) develop a clearinghouse capacity for the collection, dissemination, and preservation of knowledge and lessons learned to guide future programs for United States foreign assistance personnel, implementing partners, the donor community, and aid recipient governments;

“(I) internally distribute evaluation reports;

“(J) publicly report each evaluation, including an executive summary, a description of the evaluation methodology, key findings, appropriate context, including quantitative and qualitative data when

available, and recommendations made in the evaluation within 90 days after the completion of the evaluation;

“(K) undertake collaborative partnerships and coordinate efforts with the academic community, implementing partners, and national and international institutions, as appropriate, that have expertise in program monitoring, evaluation, and analysis when such partnerships provide needed expertise or significantly improve the evaluation and analysis;

“(L) ensure verifiable, reliable, and timely data, including from local beneficiaries and stakeholders, are available to monitoring and evaluation personnel to permit the objective evaluation of the effectiveness of covered United States foreign assistance programs, including an assessment of assumptions and limitations in such evaluations; and

“(M) ensure that standards of professional evaluation organizations for monitoring and evaluation efforts are employed, including ensuring the integrity and independence of evaluations, permitting and encouraging the exercise of professional judgment, and providing for quality control and assurance in the monitoring and evaluation process.

“(d) **PRESIDENT’S REPORT.**—Not later than 18 months after the date of the enactment of this Act [July 15, 2016], the President shall submit a report to the appropriate congressional committees that contains a detailed description of the guidelines established pursuant to subsection (b). The report shall be submitted in unclassified form, but it may contain a classified annex.

“(e) **COMPTROLLER GENERAL’S REPORT.**—The Comptroller General of the United States shall, not later than 18 months after the report required by subsection (d) is submitted to Congress, submit to the appropriate congressional committees a report that—

“(1) analyzes the guidelines established pursuant to subsection (b); and

“(2) assesses the implementation of the guidelines by the agencies, bureaus, and offices that implement covered United States foreign assistance as outlined in the President’s budget request.”

[For delegation of functions of President under section 3(b) and (d) of Pub. L. 114–191, set out above, see Memorandum of President of the United States, Nov. 21, 2017, 82 F.R. 56529, set out below.]

DEFINITIONS

Pub. L. 114–191, § 2, July 15, 2016, 130 Stat. 666, as amended by Pub. L. 115–254, div. F, title VI, § 1470(l), Oct. 5, 2018, 132 Stat. 3517; Pub. L. 117–214, § 7, Oct. 19, 2022, 136 Stat. 2255; Pub. L. 117–263, div. E, title LV, § 5564(b), Dec. 23, 2022, 136 Stat. 3361, provided that:

“In this Act [enacting this section and provisions set out as notes under this section and section 2151 of this title]:

“(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Foreign Relations of the Senate;

“(B) the Committee on Appropriations of the Senate;

“(C) the Committee on Foreign Affairs of the House of Representatives; and

“(D) the Committee on Appropriations of the House of Representatives.

“(2) **EVALUATION.**—The term ‘evaluation’ means, with respect to a covered United States foreign assistance program, the systematic collection and analysis of information about the characteristics and outcomes of the program, including projects conducted under such program, as a basis for—

“(A) making judgments and evaluations regarding the program;

“(B) improving program effectiveness; and

“(C) informing decisions about current and future programming.

“(3) **COVERED UNITED STATES FOREIGN ASSISTANCE.**—The term ‘covered United States foreign assistance’ means assistance authorized under—

“(A) part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), except for chapter 3 of such part [22 U.S.C. 2221 et seq.] (relating to International Organizations and Programs);

“(B) chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to Economic Support Fund);

“(C) the Millennium Challenge Act of 2003 (22 U.S.C. 7701 et seq.);

“(D) the Food for Peace Act (7 U.S.C. 1721 [1691] et seq.);

“(E) the Better Utilization of Investments Leading to Development Act of 2018 [22 U.S.C. 9601 et seq.].

“(E) the Global Malnutrition Prevention and Treatment Act of 2021 [Pub. L. 117–214; 22 U.S.C. 9301 note]; and

“(F) the Global Health Security and International Pandemic Prevention, Preparedness and Response Act of 2022 [Pub. L. 117–263, div. E, title LV, subtitle D; 22 U.S.C. 2151b note].”

[Amendment by section 1470(l) of Pub. L. 115–254, adding first par. (3)(E) to section 2 of Pub. L. 114–191, set out above, effective at the end of the transition period, as defined in section 9681 of this title, see section 1470(w) of Pub. L. 115–254, set out as a note under section 905 of Title 2, The Congress. Another par. (3)(E) was added by section 7 of Pub. L. 117–214. Section 5564(b)(2) of Pub. L. 117–263, which directed substitution of “; and” for period at end of subpar. (E) of section 2(3) of Pub. L. 114–191, was executed by making the substitution in the second subpar. (E).]

Executive Documents

DELEGATION OF AUTHORITY UNDER THE FOREIGN AID TRANSPARENCY AND ACCOUNTABILITY ACT OF 2016

Memorandum of President of the United States, Nov. 21, 2017, 82 F.R. 56529, provided:

Memorandum for the Director of the Office of Management and Budget

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Director of the Office of Management and Budget the functions and authorities vested in the President by sections 3(b) and 3(d) of the Foreign Aid Transparency and Accountability Act of 2016 (Public Law 114–191) (the “Act”), including updating the guidelines required by section 3(b) as he may think proper, in accordance with the Act.

The delegation in this memorandum shall apply to any provision of any future public law that is the same or substantially the same as sections 3(b) and 3(d) of the Act.

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

DONALD J. TRUMP.

§ 2395. General authorities

(a) Manner of furnishing assistance; emphasis on loans

Except as otherwise specifically provided in this chapter, assistance under this chapter may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this chapter, and shall emphasize loans rather than grants wherever possible.

(b) Authority of the President

The President may make loans, advances, and grants to, make and perform agreements and