

**§ 2103. Administrative**

(a) GENERAL AUTHORITY.—Subject to appropriations made to carry out this chapter, the American Battle Monuments Commission may—

(1) acquire land or an interest in land in a foreign country to carry out the purposes of this chapter, or an executive order conferring duties and powers on the Commission, without submission to the Attorney General under section 3111 of title 40;

(2) maintain, repair, and operate motor-propelled passenger-carrying vehicles and other property that another department, agency, or instrumentality of the United States Government provides to the Commission;

(3) establish offices in the District of Columbia and elsewhere in or outside the United States;

(4) rent office and garage space, which may be paid for in advance, in foreign countries; and

(5) procure printing, binding, engraving, lithographing, photographing, and typewriting, including the publication of information on United States activities, battlefields, memorials, and cemeteries with respect to which the Commission may exercise any duties and powers.

(b) DISPOSITION OF LAND.—Under conditions and in the manner the Commission decides is proper, the Commission may dispose of land or an interest in land in a foreign country that the Commission acquires in connection with its work.

(c) CONTRACTING OUT.—Notwithstanding the requirements of existing laws or regulations, the Commission, under conditions the Commission decides are necessary and proper, may contract for work, supplies, materials, and equipment outside or for use outside the United States and engage the services of architects and other technical and professional personnel.

(d) DELEGATION.—Under conditions the Commission may prescribe, the Commission may delegate to its Chairman, secretary, or officials in charge of any of its offices any of its authority it considers necessary and proper.

(e) SOLICITATION AND RECEIPT OF CONTRIBUTIONS.—(1) The Commission may solicit and receive funds and in-kind donations and gifts from any State, municipal, or private source to carry out the purposes of this chapter. The Commission shall deposit such funds in a separate account in the Treasury. Funds from that account shall be disbursed upon vouchers approved by the Chairman of the Commission.

(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds and in-kind donations and gifts under paragraph (1) would—

(A) reflect unfavorably on the ability of the Commission, or any member or employee of the Commission, to carry out the responsibilities or official duties of the Commission in a fair and objective manner; or

(B) compromise the integrity or the appearance of the integrity of the programs of the Commission or any official involved in those programs.

(f) LIMITATION ON USE OF CONTRIBUTIONS.—The Commission may not obligate, withdraw, or expend amounts received as contributions before March 1, 1998.

(g) STATEMENTS TO PRESIDENT.—The Commission shall transmit to the President on October 1 of each year a statement of all its financial and other transactions during the prior fiscal year.

(h) FINANCIAL STATEMENTS AND AUDITS.—The Commission shall have a system of financial controls to enable the Commission to comply with the requirements of section 3515 of title 31 and with section 2106(d)(4) of this title.

(i) DISPOSITION OF RECORDS AND ARCHIVES.—When no longer required by the Commission, the records and archives of the Commission shall be deposited with the National Archives in accordance with section 2107 of title 44.

(j) SEAL.—The Commission shall have a seal that shall be judicially noticed.

(k) DISBURSEMENTS OUTSIDE CONTINENTAL UNITED STATES.—Disbursements for expenditures outside the continental United States may be made by a special disbursing agent designated by the Commission under regulations it prescribes.

(Pub. L. 105–225, Aug. 12, 1998, 112 Stat. 1270; Pub. L. 106–117, title VI, §§ 602, 604(3), Nov. 30, 1999, 113 Stat. 1578, 1580; Pub. L. 107–217, § 3(i)(1), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 112–234, § 2(g), Dec. 28, 2012, 126 Stat. 1625.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
2103(a) .....	36:138b (1st par.).	Mar. 4, 1923, ch. 283, § 12 (1st–3d, last pars.), 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317; July 25, 1956, ch. 721, §§ 2(c), (d), 4(c)(1), (2), 70 Stat. 640, 641.
2103(b) .....	36:137.	Feb. 11, 1927, ch. 104, § 1 (5th proviso in par. under heading “American Battle Monuments Commission”), 44 Stat. 1071.
2103(c) .....	36:138b (3d par.).	
2103(d) .....	36:138b (2d par.).	
2103(e) .....	36:138b (last par.).	
2103(f) .....	36:128.	Mar. 4, 1923, ch. 283, § 7, 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317.
2103(g) .....	36:138d(c).	Mar. 4, 1923, ch. 283, § 14, as added Oct. 9, 1996, Pub. L. 104–275, title VI, § 602(b), 110 Stat. 3345.
2103(h) .....	36:131.	Mar. 4, 1923, ch. 283, § 8, 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317; July 25, 1956, ch. 721, § 2(c), (d), 70 Stat. 640; Apr. 21, 1976, Pub. L. 94–273, § 3(19), 90 Stat. 377.
2103(i) .....	36:138d(a), (b).	
2103(j) .....	36:138.	Mar. 4, 1923, ch. 283, § 9, 42 Stat. 1509; June 26, 1946, ch. 502, 60 Stat. 317; July 25, 1956, ch. 721, §§ 2(c), (d), 4(a), 70 Stat. 640, 641.
2103(k) .....	36:136.	Feb. 11, 1927, ch. 104, § 1 (3d proviso in par. under heading “American Battle Monuments Commission”), 44 Stat. 1071.
	36:133.	Feb. 11, 1927, ch. 104, § 1 (last proviso in par. under heading “American Battle Monuments Commission”), 44 Stat. 1071.

In this section, the word “terms” is omitted as included in “conditions”.

In subsection (a), before clause (1), the words “or appropriations” are omitted because of 1:1. In clauses (1) and (5), the words “duties and powers” are substituted for “functions” for consistency in the revised title and with other titles of the United States Code. In clause (2), the words “department, agency, or instrumentality” are substituted for “departments” for consistency in the revised title and with other titles of the Code.

In subsection (b), the text of 36:137 is omitted as superseded. The words “which has been or may after June 26, 1946, be” and “*Provided*, That this subsection shall not be effective until the expiration of the Surplus Property Act of 1944” are omitted as obsolete. Section 38 of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 784) provided that the Act was to expire 3 years after the cessation of hostilities of World War II. The cessation of hostilities was proclaimed on December 31, 1946, by Proclamation No. 2714, 12 Fed. Reg. 1. However, section 602(a)(1) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 399) [renumbered by section 6(a) and (b) of the Act of September 5, 1950 (ch. 849, 64 Stat. 583)] repealed the Surplus Property Act of 1944 effective July 1, 1949 (except for sections 13(d), (g), and (h), 28, and 32(b)(2)). Section 13(d), concerning power transmission lines, and section 13(g), concerning property for public airports, do not involve the American Battle Monuments Commission. Section 13(h) was repealed by section 2 of the Act of August 4, 1972 (Public Law 92-362, 86 Stat. 504). Section 28 was repealed by section 21 of the Act of June 25, 1948 (ch. 645, 62 Stat. 868). Section 32(b)(2) was repealed by section 111(a)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87-256, 75 Stat. 538).

In subsection (c), the words “in its discretion”, “by contract or otherwise”, and “firms of architects” are omitted as unnecessary.

**Editorial Notes**

AMENDMENTS

2012—Subsec. (h). Pub. L. 112-234 substituted “of section 3515 of title 31” for “of paragraph (2) of this subsection”, struck out par. (1) designation before “The Commission”, and struck out par. (2) which required the Commission to prepare and submit a financial statement by March 1 of each year beginning with 1998 and to obtain an audit by the Comptroller General of each such financial statement.

2002—Subsec. (a)(1). Pub. L. 107-217 substituted “section 3111 of title 40” for “section 355 of the Revised Statutes (40 U.S.C. 255)”.

1999—Subsec. (d). Pub. L. 106-117, § 604(3)(C), substituted “Chairman” for “chairman”.

Subsec. (e). Pub. L. 106-117, § 602, amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “The Commission may receive State, local, or private amounts to carry out this chapter. The Commission shall deposit the amounts with the Treasurer of the United States. The Treasurer shall keep the amounts in separate accounts and shall disburse the amounts on vouchers approved by the chairman.”

Subsec. (h)(2)(A)(i). Pub. L. 106-117, § 604(3)(A), struck out “, United States Code” after “title 31”.

Subsec. (i). Pub. L. 106-117, § 604(3)(B), struck out “, United States Code” after “title 44”.

**§ 2104. Military cemeteries in foreign countries**

When, as a result of combat operations, the Armed Forces establish military cemeteries in zones of operations outside the United States and the territories and possessions of the United States, the American Battle Monuments Commission and the Secretary of the Army, immediately on the cessation of hostilities, shall de-

cide which of the cemeteries will become permanent cemeteries or, if they decide it is desirable, shall select new sites for the cemeteries at any other location. The Commission is solely responsible for the design and construction of the permanent cemeteries, and of all buildings, plantings, headstones, and other permanent improvements incidental to the cemeteries, except that—

(1) the Armed Forces are responsible for maintaining the permanent cemeteries until the Commission declares its readiness to assume the authorized administrative duties and powers;

(2) all construction undertaken by the Armed Forces in establishing and maintaining the cemetery prior to its transfer to the Commission shall be nonpermanent;

(3) burials and reburials by the Armed Forces shall be carried out in accordance with plans prepared by the Commission; and

(4) the Armed Forces have the right to re-enter a cemetery transferred to the Commission to exhume or re-inter a body if they decide it is necessary.

(Pub. L. 105-225, Aug. 12, 1998, 112 Stat. 1271.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2104 .....	36:122b.	Mar. 4, 1923, ch. 283, § 2, as added July 25, 1956, ch. 721, § 3(a), 70 Stat. 640.

In this section, before clause (1), the words “so established, if any” are omitted as unnecessary. In clause (1), the words “such time as” are omitted as unnecessary. The words “duties and powers” are substituted for “functions” for consistency in the revised title and with other titles of the United States Code. In clause (2), the words “in nature” are omitted as unnecessary.

**Statutory Notes and Related Subsidiaries**

RESTORATION, OPERATION, AND MAINTENANCE OF CLARK VETERANS CEMETERY

Pub. L. 112-260, title I, § 106, Jan. 10, 2013, 126 Stat. 2421, provided that:

“(a) IN GENERAL.—After an agreement is made between the Government of the Republic of the Philippines and the United States Government, Clark Veterans Cemetery in the Republic of the Philippines shall be treated, for purposes of section 2104 of title 36, United States Code, as a cemetery for which it was decided under such section that the cemetery will become a permanent cemetery and the American Battle Monuments Commission shall restore, operate, and maintain Clark Veterans Cemetery (to the degree the Commission considers appropriate) under such section in cooperation with the Government of the Republic of the Philippines.

“(b) LIMITATION ON FUTURE BURIALS.—Burials at the cemetery described in subsection (a) after the date of the agreement described in such subsection shall be limited to eligible veterans, as determined by the Commission, whose burial does not incur any cost to the Commission.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission—

“(1) \$5,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the cemetery described in subsection (a); and

“(2) amounts necessary to operate and maintain the cemetery described in subsection (a).”