

§ 2112. Presidential archival depository

(a)(1) When the Archivist considers it to be in the public interest, the Archivist may—

(A)(i) accept, for and in the name of the United States, land, a facility, and equipment offered as a gift to the United States for the purpose of creating a Presidential archival depository;

(ii) take title to the land, facility, and equipment on behalf of the United States; and

(iii) maintain, operate, and protect the land, facility, and equipment as a Presidential archival depository and as part of the national archives system;

(B)(i) make agreements, upon terms and conditions the Archivist considers proper, with a State, political subdivision, university, institution of higher learning, institute, or foundation to use as a Presidential archival depository land, a facility, and equipment of the State, subdivision, university, or other organization, to be made available by it without transfer of title to the United States; and

(ii) maintain, operate, and protect the depository as a part of the national archives system; and

(C) accept, for and in the name of the United States, gifts offered for the purpose of making any physical or material change or addition to a Presidential archival depository.

(2) The Archivist shall promulgate architectural and design standards applicable to Presidential archival depositories in order to ensure that such depositories (A) preserve Presidential records subject to chapter 22 of this title and papers and other historical materials accepted for deposit under section 2111 of this title and (B) contain adequate research facilities.

(3) Prior to accepting and taking title to any land, facility, or equipment under subparagraph (A) of paragraph (1), or prior to entering into any agreement under subparagraph (B) of such paragraph or any other agreement to accept or establish a Presidential archival depository, the Archivist shall submit a written report on the proposed Presidential archival depository to the President of the Senate and the Speaker of the House of Representatives. The report shall include—

(A) a description of the land, facility, and equipment offered as a gift or to be made available without transfer of title;

(B) a statement specifying the estimated total cost of the proposed depository and the amount of the endowment for the depository required pursuant to subsection (g) of this section;

(C) a statement of the terms of the proposed agreement, if any;

(D) a general description of the types of papers, documents, or other historical materials proposed to be deposited in the depository to be created, and of the terms of the proposed deposit;

(E) a statement of any additional improvements and equipment associated with the development and operation of the depository, an estimate of the costs of such improvements and equipment, and a statement as to the extent to which such costs will be incurred by any Federal or State government agency;

(F) an estimate of the total annual cost to the United States of maintaining, operating, and protecting the depository; and

(G) a certification that such facility and equipment (whether offered as a gift or made available without transfer of title) comply with standards promulgated by the Archivist pursuant to paragraph (2) of this subsection.

(4) Prior to accepting any gift under subparagraph (C) of paragraph (1) for the purpose of making any physical or material change or addition to a Presidential archival depository, or prior to implementing any provision of law requiring the making of such a change or addition, the Archivist shall submit a report in writing on the proposed change or addition to the President of the Senate and the Speaker of the House of Representatives. The report shall include—

(A) a description of such gift;

(B) a statement specifying the estimated total cost of the proposed physical or material change or addition and the amount of the deposit in an endowment for the depository required pursuant to subsection (g) of this section in order to meet the cost of such change or addition;

(C) a statement of the purpose of the proposed change or addition and a general description of any papers, documents, or historical materials proposed to be deposited in the depository as a result of such change or addition;

(D) a statement of any additional improvements or equipment for the depository associated with such change or addition;

(E) an estimate of the increase in the total annual cost to the United States of maintaining, operating, and protecting the depository that will result from such change or addition; and

(F) a certification that the depository, and the equipment therein will, after such change or addition, comply with the standards promulgated by the Archivist pursuant to paragraph (2) of this subsection.

(5) The Archivist may not—

(A) accept or take title to land, a facility, or equipment under subparagraph (A) of paragraph (1) for the purpose of creating a Presidential archival depository;

(B) enter into any agreement under subparagraph (B) of such paragraph or any other agreement to accept or establish a Presidential archival depository; or

(C) accept any gift under subparagraph (C) of such paragraph for the purpose of making any physical or material change to a Presidential archival depository,

until the expiration of a period of 60 days of continuous session of Congress beginning on the date on which the Archivist transmits the report required under paragraph (3) of this subsection with respect to such Presidential archival depository or the report required under paragraph (4) of this subsection with respect to such change or addition, as the case may be.

(b) When the Archivist considers it to be in the public interest, he may deposit in a Presidential archival depository papers, documents, or other historical materials accepted under sec-

tion 2111 of this title, or Federal records appropriate for preservation.

(c) When the Archivist considers it to be in the public interest, he may exercise, with respect to papers, documents, or other historical materials deposited under this section, or otherwise, in a Presidential archival depository, all the functions and responsibilities otherwise vested in him pertaining to Federal records or other documentary materials in his custody or under his control. The Archivist, in negotiating for the deposit of Presidential historical materials, shall take steps to secure to the Government, as far as possible, the right to have continuous and permanent possession of the materials. Papers, documents, or other historical materials accepted and deposited under section 2111 of this title and this section are subject to restrictions as to their availability and use stated in writing by the donors or depositors, including the restriction that they shall be kept in a Presidential archival depository. The restrictions shall be respected for the period stated, or until revoked or terminated by the donors or depositors or by persons legally qualified to act on their behalf. Subject to the restrictions, the Archivist may dispose by sale, exchange, or otherwise, of papers, documents, or other materials which the Archivist determines to have no permanent value or historical interest or to be surplus to the needs of a Presidential archival depository. Only the first two sentences of this subsection shall apply to Presidential records as defined in section 2201(2) of this title.

(d) When the Archivist considers it to be in the public interest, he may cooperate with and assist a university, institution of higher learning, institute, foundation, or other organization or qualified individual to further or to conduct study or research in historical materials deposited in a Presidential archival depository.

(e) When the Archivist considers it to be in the public interest, he may charge and collect reasonable fees for the privilege of visiting and viewing exhibit rooms or museum space, or for the occasional, non-official use of rooms and spaces (and services related to such use), in a Presidential archival depository.

(f) When the Archivist considers it to be in the public interest, he may provide reasonable office space in a Presidential archival depository for the personal use of a former President of the United States.

(g)(1) When the Archivist considers it to be in the public interest, the Archivist may solicit and accept gifts or bequests of money or other property for the purpose of maintaining, operating, protecting, or improving a Presidential archival depository. The proceeds of gifts or bequests, together with the proceeds from fees or from sales of historical materials, copies or reproductions, catalogs, or other items, having to do with a Presidential archival depository, shall be paid into an account in the National Archives Trust Fund and shall be held, administered, and expended for the benefit and in the interest of the Presidential archival depository in connection with which they were received, and for the same purposes and objects, including custodial and administrative services for which appropriations for the maintenance, operation, protec-

tion, or improvement of Presidential archival depositories might be expended.

(2) The Archivist shall provide for the establishment in such Trust Fund of separate endowments for the maintenance of the land, facility, and equipment of each Presidential archival depository, to which shall be credited any gifts or bequests received under paragraph (1) that are offered for that purpose. Income to each such endowment shall be available to cover the cost of facility operations, but shall not be available for the performance of archival functions under this title.

(3) The Archivist shall not accept or take title to any land, facility, or equipment under subparagraph (A) of subsection (a)(1), or enter into any agreement to use any land, facility, or equipment under subparagraph (B) of such subsection for the purpose of creating a Presidential archival depository, unless the Archivist determines that there is available, by gift or bequest for deposit under paragraph (2) of this subsection in an endowment with respect to such depository, an amount for the purpose of maintaining such land, facility, and equipment equal to—

(A) the product of—

(i) the total cost of acquiring or constructing such facility and of acquiring and installing such equipment, multiplied by

(ii) 20 percent; plus

(B)(i) if title to the land is to be vested in the United States, the product of—

(I) the total cost of acquiring the land upon which such facility is located, or such other measure of the value of such land as is mutually agreed upon by the Archivist and the donor, multiplied by

(II) 20 percent; or

(ii) if title to the land is not to be vested in the United States, the product of—

(I) the total cost to the donor of any improvements to the land upon which such facility is located (other than such facility and equipment), multiplied by

(II) 20 percent; plus

(C) if the Presidential archival depository will exceed 70,000 square feet in area, an amount equal to the product of—

(i) the sum of—

(I) the total cost described in clause (i) of subparagraph (A); plus

(II) the total cost described in subclause (I) or (II) of subparagraph (B)(i), as the case may be, multiplied by

(ii) the percentage obtained by dividing the number of square feet by which such depository will exceed 70,000 square feet by 70,000.

(4) If a proposed physical or material change or addition to a Presidential archival depository would result in an increase in the costs of facility operations, the Archivist may not accept any gift under subparagraph (C) of paragraph (1) for the purpose of making such a change or addition, or may not implement any provision of law requiring the making of such a change or addition, unless the Archivist determines that there is available, by gift or bequest for deposit under

paragraph (2) of this subsection in an endowment with respect to such depository, an amount for the purpose of maintaining the land, facility, and equipment of such depository equal to the difference between—

(A) the amount which, pursuant to paragraph (3) of this subsection, would have been required to have been available for deposit in such endowment with respect to such depository if such change or addition had been included in such depository on—

(i) the date on which the Archivist took title to the land, facility, and equipment for such depository under subparagraph (A) of subsection (a)(1); or

(ii) the date on which the Archivist entered into an agreement for the creation of such depository under subparagraph (B) of such paragraph,

as the case may be; minus

(B) the amount which, pursuant to paragraph (3) of this subsection, was required to be available for deposit in such endowment with respect to such depository on the date the Archivist took such title or entered into such agreement, as the case may be.

(5)(A) Notwithstanding paragraphs (3) and (4) (to the extent that such paragraphs are inconsistent with this paragraph), this subsection shall be administered in accordance with this paragraph with respect to any Presidential archival depository created as a depository for the papers, documents, and other historical materials and Presidential records pertaining to any President who takes the oath of office as President for the first time on or after July 1, 2002.

(B) For purposes of subparagraphs (A)(ii), (B)(i)(II), and (B)(ii)(II) of paragraph (3) the percentage of 60 percent shall apply instead of 20 percent.

(C)(i) In this subparagraph, the term “base endowment amount” means the amount of the endowment required under paragraph (3).

(ii)(I) The Archivist may give credits against the base endowment amount if the Archivist determines that the proposed Presidential archival depository will have construction features or equipment that are expected to result in quantifiable long-term savings to the Government with respect to the cost of facility operations.

(II) The features and equipment described under subclause (I) shall comply with the standards promulgated by the Archivist under subsection (a)(2).

(III) The Archivist shall promulgate standards to be used in calculating the dollar amount of any credit to be given, and shall consult with all donors of the endowment before giving any credits. The total dollar amount of credits given under this paragraph may not exceed 20 percent of the base endowment amount.

(D)(i) In calculating the additional endowment amount required under paragraph (4), the Archivist shall take into account credits given under subparagraph (C), and may also give credits against the additional endowment amount required under paragraph (4), if the Archivist determines that construction features or equipment used in making or equipping the physical or material change or addition are expected to

result in quantifiable long-term savings to the Government with respect to the cost of facility operations.

(ii) The features and equipment described under clause (i) shall comply with the standards promulgated by the Archivist under subsection (a)(2).

(iii) The Archivist shall promulgate standards to be used in calculating the dollar amount of any credit to be given, and shall consult with all donors of the endowment before giving any credits. The total dollar amount of credits given under this paragraph may not exceed 20 percent of the additional endowment amount required under paragraph (4).

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1289, § 2108; Pub. L. 94-575, § 4(a), Oct. 21, 1976, 90 Stat. 2727; Pub. L. 95-591, § 2(b)(3), Nov. 4, 1978, 92 Stat. 2528; renumbered § 2112 and amended Pub. L. 98-497, title I, §§ 102(a)(1), 107(a)(6), Oct. 19, 1984, 98 Stat. 2280, 2286; Pub. L. 99-323, § 3, May 27, 1986, 100 Stat. 495; Pub. L. 108-7, div. J, title V, § 513, Feb. 20, 2003, 117 Stat. 462; Pub. L. 108-383, § 4(a), Oct. 30, 2004, 118 Stat. 2218; Pub. L. 110-404, § 6(b), Oct. 13, 2008, 122 Stat. 4285.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(f) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583; and amended July 12, 1952, ch. 703, § 1(o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695).

Editorial Notes

PRIOR PROVISIONS

A prior section 2112 was renumbered section 2116 of this title.

AMENDMENTS

2008—Subsec. (g)(5)(B). Pub. L. 110-404 substituted “60” for “40”.

2004—Subsec. (e). Pub. L. 108-383 substituted “space, or for the occasional, non-official use of rooms and spaces (and services related to such use),” for “space”.

2003—Subsec. (g)(5). Pub. L. 108-7 added par. (5).

1986—Subsec. (a). Pub. L. 99-323, § 3(a), amended subsec. (a) generally, revising and restating as pars. (1) to (5) provisions of former undesignated pars. containing similar subject matter.

Subsec. (g). Pub. L. 99-323, § 3(b), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “When the Archivist considers it be in the public interest, he may accept gifts or bequests of money or other property for the purpose of maintaining, operating, protecting, or improving a Presidential archival depository. The proceeds of gifts or bequests, together with the proceeds from fees or from sales of historical materials, copies or reproductions, catalogs, or other items, having to do with a Presidential archival depository, shall be paid into the National Archives Trust Fund to be held, administered, and expended for the benefit and in the interest of the Presidential archival depository in connection with which they were received, including administrative and custodial expenses as the Archivist determines.”

1984—Pub. L. 98-497, § 102(a)(1), renumbered section 2108 of this title as this section.

Subsec. (a). Pub. L. 98-497, § 107(a)(6), substituted “Archivist” for “Administrator of General Services” and “Archivist” for “Administrator” wherever appearing.

Subsecs. (b), (c). Pub. L. 98-497, § 107(a)(6), substituted “Archivist” for “Administrator” and “section 2111” for “section 2107” wherever appearing.

Subsecs. (d) to (g). Pub. L. 98-497, § 107(a)(6), substituted “Archivist” for “Administrator” wherever appearing.

1978—Subsec. (c). Pub. L. 95-591 limited application of subsec. (c) when dealing with Presidential records.

1976—Subsecs. (b), (c). Pub. L. 94-575 substituted reference to section “2107” for “3106”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Section 4 of Pub. L. 99-323 provided that: “Paragraphs (3) and (4) of section 2112(g) of title 44, United States Code (as added by the amendment made by section 3(b) of this Act) shall apply with respect to any Presidential archival depository created as a depository for the papers, documents, and other historical materials and Federal records pertaining to any President who takes the oath of office as President for the first time on or after January 20, 1985.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-591 effective with respect to Presidential records created during a term of office of President beginning on or after Jan. 20, 1981, see section 3 of Pub. L. 95-591, set out as an Effective Date note under section 2201 of this title.

CAPITAL IMPROVEMENT PLAN FOR PRESIDENTIAL ARCHIVAL DEPOSITORIES

Pub. L. 110-404, §6(a), Oct. 13, 2008, 122 Stat. 4284, provided that:

“(1) PROVISION OF PLAN.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a 10-year capital improvement plan, in accordance with paragraph (2), for all Presidential archival depositories (as defined in section 2101 of title 44, United States Code), which shall include—

“(A) a prioritization of all capital projects at Presidential archival depositories that cost more than \$1,000,000;

“(B) the current estimate of the cost of each capital project; and

“(C) the basis upon which each cost estimate was developed.

“(2) PROVIDED TO CONGRESS.—The capital improvement plan shall be provided to the committees, as described in paragraph (1), at the same time as the first Budget of the United States Government after the date of enactment of this Act [Oct. 13, 2008] is submitted to Congress.

“(3) ANNUAL UPDATES AND EXPLANATION OF CHANGES IN COST ESTIMATES.—The Archivist of the United States shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives—

“(A) annual updates to the capital improvement plan described in paragraph (1) at the same time as each subsequent Budget of the United States Government is submitted to Congress; and

“(B) an explanation for any changes in cost estimates.”

JOHN FITZGERALD KENNEDY LIBRARY

Pub. L. 89-547, Aug. 27, 1966, 80 Stat. 370, provided: “That the Administrator of General Services is hereby authorized to accept title to the structure or structures to be erected and equipped at Cambridge, Massachusetts, by the John Fitzgerald Kennedy Library, Incorporated, to be transferred to the United States Government, without reimbursement, for use as a Presidential archival depository to be known as the John Fitzgerald Kennedy Library, and to maintain, operate, and protect such depository as a part of the National Archives sys-

tem. The Administrator may enter into such agreements with the officers of the John Fitzgerald Kennedy Library, Incorporated, as are necessary to complete the transfer of title to the United States and may do so without regard to the provision of section 507(f)(1) of the Federal Property and Administrative Services Act of 1949, as amended (44 U.S.C. [former] 397(f)(1) [now subsec. (a) of this section]), that the Administrator shall not enter into any such agreement until the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a report in writing of any such proposed Presidential archival depository is transmitted by the Administrator to the President of the Senate and the Speaker of the House of Representatives.”

[For transfer of certain functions of the Administrator of General Services under Pub. L. 89-547 to the Archivist of the United States, see section 103(b)(2) of Pub. L. 98-497, set out as a Transfer of Functions note under section 2102 of this title.]

LYNDON BAINES JOHNSON PRESIDENTIAL ARCHIVAL DEPOSITORY

Pub. L. 89-169, Sept. 6, 1965, 79 Stat. 648, provided: “That the Administrator of General Services is hereby authorized to enter into an agreement upon such terms and conditions as he determines proper with the University of Texas to utilize as the Lyndon Baines Johnson Archival Depository, land, buildings, and equipment of such university to be made available by it without transfer of title to the United States, and to maintain, operate and protect such depository as a part of the National Archives system. Such agreement may be entered into without regard to the provisions of section 507(f)(1) of the Federal Property and Administrative Services Act of 1949, as amended (44 U.S.C. [former] 397(f)(1)) [now subsec. (a) of this section], that the Administrator shall not enter into any such agreement until the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which a report in writing of any such proposed Presidential archival depository is transmitted by the Administrator to the President of the Senate and the Speaker of the House of Representatives.”

[For transfer of certain functions of the Administrator of General Services under Pub. L. 89-169 to the Archivist of the United States, see section 103(b)(2) of Pub. L. 98-497, set out as a Transfer of Functions note under section 2102 of this title.]

§ 2113. Depository for agreements between States

The Archivist may receive duplicate originals or authenticated copies of agreements or compacts entered into under the Constitution and laws of the United States, between States of the Union, and take necessary actions for their preservation and servicing.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1290, § 2109; renumbered § 2113 and amended Pub. L. 98-497, title I, §§ 102(a)(1), 107(a)(7), Oct. 19, 1984, 98 Stat. 2280, 2286.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., § 397(h) (June 30, 1949, ch. 288, title V, § 507, as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583, and amended July 12, 1952, ch. 703, § 1(o), (p), 66 Stat. 594; July 12, 1955, ch. 329, 69 Stat. 297; Aug. 12, 1955, ch. 859, 69 Stat. 695; July 3, 1956, ch. 513, § 4, 70 Stat. 494; June 13, 1957, Pub. L. 85-51, 71 Stat. 69; Mar. 15, 1958, Pub. L. 85-341, § 1(1), 72 Stat. 34).

Editorial Notes

PRIOR PROVISIONS

A prior section 2113 was renumbered section 2117 of this title.