

TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 32 - FOREIGN ASSISTANCE
SUBCHAPTER III - GENERAL AND ADMINISTRATIVE PROVISIONS
Part III - Miscellaneous Provisions

§ 2421. Trade and Development Agency

(a) Purpose

The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries, with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment.

(b) Authority to provide assistance

(1) Authority

The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under subchapter I of this chapter, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

(2) Use of funds

Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

(3) Information dissemination

(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

(4) Nonapplicability of other provisions

Any funds used for purposes of this section may be used notwithstanding any other provision of law.

(5) Contributions to costs

The Trade and Development Agency shall, to the maximum extent practicable, require corporations and other entities to—

(A) share the costs of feasibility studies and other project planning services funded under this section; and

(B) reimburse the Trade and Development Agency those funds provided under this section, if the corporation or entity concerned succeeds in project implementation.

(c) **Director and personnel**

(1) **Director**

There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **Officers and employees**

(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

(d) **Annual report**

The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

(e) **Audits**

(1) **In general**

The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, except as otherwise provided in this section.

(2) **Independent audit**

An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, and which the Trade and Development Agency shall submit to the Congress not later than 6 1/2 months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

(3) **Audit by Comptroller General**

In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

(4) **Availability of information**

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2005 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the Government Accountability Office designated by the Comptroller General.

(f) Funding

(1) Authorization

(A) There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, \$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter.

(B) Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(2) Funding for technical assistance grants by multilateral development banks

(A) The Trade and Development Agency should, in carrying out its program, provide, as appropriate, funds to multilateral development banks for technical assistance grants.

(B) As used in subparagraph (A)—

(i) the term “technical assistance grants” means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

(ii) the term “multilateral development bank” has the meaning given that term in section 262r (c) of this title.

(Pub. L. 87–195, pt. III, § 661, as added Pub. L. 93–559, § 31, Dec. 30, 1974, 88 Stat. 1804; amended Pub. L. 94–161, title III, § 316, Dec. 20, 1975, 89 Stat. 867; Pub. L. 95–88, title I, § 128, Aug. 3, 1977, 91 Stat. 543; Pub. L. 95–424, title I, § 121, Oct. 6, 1978, 92 Stat. 954; Pub. L. 96–53, title I, § 119, Aug. 14, 1979, 93 Stat. 365; Pub. L. 96–533, title III, § 311, Dec. 16, 1980, 94 Stat. 3148; Pub. L. 97–113, title III, § 312, Dec. 29, 1981, 95 Stat. 1536; Pub. L. 99–83, title IV, § 405, Aug. 8, 1985, 99 Stat. 219; Pub. L. 100–418, title II, § 2204(b)(1), (2), Aug. 23, 1988, 102 Stat. 1329; Pub. L. 102–549, title II, § 201, Oct. 28, 1992, 106 Stat. 3655; Pub. L. 103–392, title II, § 201, Oct. 22, 1994, 108 Stat. 4099; Pub. L. 106–158, § 5, Dec. 9, 1999, 113 Stat. 1746; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

References in Text

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c)(2)(C), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

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.

Amendments

2004—Subsec. (e)(4). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office”.

1999—Subsec. (a). Pub. L. 106–158, § 5(a), inserted before period at end: “, with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment”.

Subsec. (b)(5). Pub. L. 106–158, § 5(b), added par. (5).

Subsec. (f)(1)(A). Pub. L. 106–158, § 5(c)(1), substituted “\$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter” for “\$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996”.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2005 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Subsec. (f)(2)(A). Pub. L. 106–158, § 5(c)(2), substituted “in carrying out its program, provide, as appropriate, funds” for “in fiscal years 1993 and 1994, substantially increase the amount of funds it provides”.

1994—Subsec. (f)(1). Pub. L. 103–392 redesignated existing provisions as subpar. (A), substituted “\$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996.” for “\$55,000,000 for fiscal year 1993 and \$65,000,000 for fiscal year 1994.”, and added subpar. (B).

1992—Pub. L. 102–549 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) which authorized a trade and development program to facilitate access to natural resources of interest to the United States and to stimulate reimbursable aid programs, established an agency called the Trade and Development Program to carry out the program, established an advisory board, and authorized appropriations for purposes of section.

1988—Subsec. (a). Pub. L. 100–418, § 2204(b)(1), inserted sentence providing for use of funds for project planning, development, management, and procurement for bilateral and multilateral projects, for purpose of promoting use of United States exports in such projects.

Subsecs. (b) to (d). Pub. L. 100–418, § 2204(b)(2), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

1985—Subsec. (b). Pub. L. 99–83 amended subsec. (b) generally, substituting provisions authorizing appropriations of \$20,000,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of \$6,907,000 for fiscal years 1982 and 1983.

1981—Pub. L. 97–113, § 312(b), designated existing provisions as subsec. (a), struck out provision for use of \$4,000,000 of funds made available for fiscal year 1981 for purposes of this chapter, and added subsec. (b).

1980—Pub. L. 96–533 substituted authorization for use of \$4,000,000 of available funds for fiscal year 1981 for such authorization for use of \$3,800,000 of available funds for fiscal year 1980 for reimbursable development programs.

1979—Pub. L. 96–53 substituted “\$3,800,000” for “\$3,000,000” and “1980” for “1979”.

1978—Pub. L. 95–424 substituted “\$3,000,000 of the funds made available for the purposes of this chapter for the fiscal year 1979” for “\$2,000,000 of the funds made available for the purposes of this chapter. In the fiscal year 1977 and \$2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978.”

1977—Pub. L. 95–88 struck out provisions authorizing the President to use up to \$1,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1975 and \$2,000,000 in the fiscal year 1976, and inserted provisions authorizing the President to use \$2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978.

1975—Pub. L. 94–161 increased usable funds in fiscal year 1976 to \$2,000,000 from \$1,000,000 and authorized use of \$2,000,000 in fiscal year 1977.

Change of Name

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

Section 202(a), (e) of Pub. L. 102–549 provided that:

“(a) Renaming of Trade and Development Program.—The Trade and Development Program shall, on or after the effective date of this section [Oct. 28, 1992], be known as the Trade and Development Agency.

“(e) Reference in Other Laws.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.”

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.

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.

Appointment of Present Director Not Affected

Section 202(b) of title II of Pub. L. 102-549 provided that: "The enactment of this title [amending this section and section 5401 of this title, section 5314 of Title 5, Government Organization and Employees, and sections 635q to 635s of Title 12, Banks and Banking, enacting provisions set out as a note above, and amending provisions set out as a note under section 2151 of this title] shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section [Oct. 28, 1992]."

Trade and Development Program Activities for Poland and Hungary

Pub. L. 101-179, title III, § 305, Nov. 28, 1989, 103 Stat. 1314, authorized appropriation of an additional \$6,000,000 for the 3-year period beginning Oct. 1, 1989, to carry out this section, in order to permit expansion of the Trade and Development Program [now Agency] into Poland and Hungary.

Trade and Development Program; Reaffirmation of Support

Section 2204(a) of Pub. L. 100-418 provided that: "The Congress reaffirms its support for the Trade and Development Program [now Trade and Development Agency], and believes that the Program's [Agency's] ability to support high priority development projects in developing countries would be enhanced by an increase in the funds authorized for the Program as well as by a clarification of the Program's status as a separate component of the International Development Cooperation Agency."