

TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 54 - PRIVATE ORGANIZATION ASSISTANCE
SUBCHAPTER II - NATIONAL ENDOWMENT FOR DEMOCRACY

§ 4413. Eligibility of the Endowment for grants

(a) Compliance with statutory requirements

Grants may be made to the Endowment under this subchapter only if the Endowment agrees to comply with the requirements specified in this section and elsewhere in this subchapter.

(b) Funding for private sector groups and covered programs only

(1) The Endowment may only provide funding for programs of private sector groups and may not carry out programs directly.

(2) The Endowment may provide funding only for programs which are consistent with the purposes set forth in section 4411 (b) of this title.

(c) Compensation, etc., for officers and employees of Endowment

(1) Officers of the Endowment may not receive any salary or other compensation from any source, other than the Endowment, for services rendered during the period of their employment by the Endowment.

(2) If an individual who is an officer or employee of the United States Government serves as a member of the Board of Directors or as an officer or employee of the Endowment, that individual may not receive any compensation or travel expenses in connection with services performed for the Endowment.

(d) Prohibitions respecting financial matters

(1) The Endowment shall not issue any shares of stock or declare or pay any dividends.

(2) No part of the assets of the Endowment shall inure to the benefit of any member of the Board, any officer or employee of the Endowment, or any other individual, except as salary or reasonable compensation for services.

(e) Audit of accounts; reporting requirements

(1) The accounts of the Endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Endowment are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) The report of each such independent audit shall be included in the annual report required by subsection (h) of this section. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Endowment's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Endowment's income and expenses during the year, and a statement of the application of funds, together with the independent auditor's opinion of those statements.

(f) Audit of financial transactions; reporting requirements

(1) The financial transactions of the Endowment for each fiscal year may be audited by the Government Accountability Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Endowment are normally kept. The representatives of the Government Accountability Office shall have access to

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, records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment pertaining to its financial transactions and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Endowment shall remain in the possession and custody of the Endowment.

(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Endowment, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this subchapter. A copy of each report shall be furnished to the President and to the Endowment at the time submitted to the Congress.

(g) Audits by United States Information Agency

The financial transactions of the Endowment for each fiscal year shall be audited by the United States Information Agency under the conditions set forth in subsection (f)(1) of this section.

(h) Recordkeeping requirements; audit and examination of books, etc.

(1) The Endowment shall ensure that each recipient of assistance provided through the Endowment under this subchapter keeps separate bank accounts or separate self-balancing ledger accounts with respect to such assistance and such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Endowment shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Endowment under this subchapter. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose.

(i) Annual report; contents; testimony respecting report

Not later than February 1 of each year, the Endowment shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress. The report shall include a comprehensive and detailed report of the Endowment's operations, activities, financial condition, and accomplishments under this subchapter and may include such recommendations as the Endowment deems appropriate. The Board members and officers of the Endowment shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (f) of this section, or any other matter which any such committee may determine.

(j) Grantee; conflict of interest

After January 31, 1993, no member of the Board of the Endowment may be a member of the board of directors or an officer of any grantee of the National Endowment for Democracy which receives more than 5 percent of the funds of the Endowment for any fiscal year.

(Pub. L. 98–164, title V, § 504, Nov. 22, 1983, 97 Stat. 1040; Pub. L. 99–93, title II, § 210(b), (d), Aug. 16, 1985, 99 Stat. 432; Pub. L. 100–204, title II, § 211, Dec. 22, 1987, 101 Stat. 1376; Pub. L. 102–138, title II, §§ 211(d), 215, Oct. 28, 1991, 105 Stat. 695, 697; Pub. L. 103–236, title II, § 228, Apr. 30, 1994, 108 Stat. 423; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

Amendments

2004—Subsec. (f)(1). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office” in two places.

1994—Subsec. (h)(1). Pub. L. 103–236 substituted “bank accounts or separate self-balancing ledger accounts” for “accounts”.

1991—Subsec. (g). Pub. L. 102–138, § 211(d), substituted “shall” for “may also” before “be audited”.

Subsec. (j). Pub. L. 102–138, § 215, added subsec. (j).

1987—Subsec. (h)(1). Pub. L. 100–204 inserted “separate accounts with respect to such assistance and” after “keeps”.

1985—Subsecs. (g) to (i). Pub. L. 99–93 added subsec. (g), redesignated existing subsecs. (g) and (h) as (h) and (i), respectively, and in subsec. (i) substituted “February 1” for “December 31”.

Transfer of Functions

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.