

(3) the term “originating agency” means, with respect to a record, the department, agency, or entity of the United States (or any officer or employee thereof of acting in his official capacity) that originates, develops, publishes, issues, or otherwise prepares that record or receives that record from outside the United States Government; and

(4) the term “record” includes any written material (including any document, memorandum, correspondence, statistical data, book, or other papers), map, photograph, machine readable material, or other documentary material, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value in them, and such term does not include library or museum material made or acquired and preserved solely for reference or exhibition purposes, any extra copy of a document preserved only for convenience of reference, or any stocks of publications or of processed documents.

(Aug. 1, 1956, ch. 841, title IV, § 407, as added Pub. L. 102-138, title I, § 198(a), Oct. 28, 1991, 105 Stat. 690.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103-236, set out as a note under section 2651a of this title.

CHAPTER 54—PRIVATE ORGANIZATION ASSISTANCE

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SUBCHAPTER I—THE ASIA FOUNDATION

§ 4401. Findings

The Congress finds that—

(1) The Asia Foundation, a private nonprofit corporation incorporated in 1954 in the State of California, has long been active in promoting Asian-American friendship and cooperation and in lending encouragement and assistance to Asians in their own efforts to develop more open, more just, and more democratic societies;

(2) The Asia Foundation’s commitment to strengthening indigenous Asian institutions which further stable national development, constructive social change, equitable economic growth, and cooperative international relationships is fully consistent with and supportive of long-term United States interests in Asia;

(3) The Asia Foundation, as a private organization, is able to conduct programs in response to Asian initiatives that would be difficult or impossible for an official United States instrumentality, and it is in a position in Asia to respond quickly and flexibly to meet new opportunities;

(4) in recognition of the valuable contributions of The Asia Foundation to long-range United States foreign policy interests, the United States Government has, through a variety of agencies, provided financial support for The Asia Foundation; and

(5) it is in the interest of the United States, and the further strengthening of Asian-American friendship and cooperation, to establish a more permanent mechanism for United States Government financial support for the ongoing activities of The Asia Foundation, while preserving the independent character of the Foundation.

(Pub. L. 98-164, title IV, § 402, Nov. 22, 1983, 97 Stat. 1038.)

SHORT TITLE

Section 401 of title IV of Pub. L. 98-164 provided that: “This title [enacting this subchapter] may be cited as ‘The Asia Foundation Act’.”

For short title of title V of Pub. L. 98-164, which enacted subchapter II of this chapter, as the "National Endowment for Democracy Act", see section 501 of Pub. L. 98-164, set out as a Short Title note under section 4411 of this title.

§ 4402. Grants; authorization; purposes; terms and conditions; deposit of interest

(a) The Secretary of State shall make an annual grant to The Asia Foundation with the funds made available under section 4403 of this title. Such grants shall be in general support of the Foundation's programs and operations. The terms and conditions of grants pursuant to this section shall be set forth in a grant agreement between the Secretary of State and The Asia Foundation.

(b) If funds made available to The Asia Foundation pursuant to this subchapter or pursuant to any other provision of law are, with the permission of the head of the Federal agency making the funds available, invested by the Foundation or any of its subgrantees pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if that interest is used for the purposes for which the funds were made available.

(Pub. L. 98-164, title IV, § 403, Nov. 22, 1983, 97 Stat. 1038.)

§ 4403. Funding

(a) Authorization of appropriations

There are authorized to be appropriated to the Secretary of State \$13,900,000 for the fiscal year 1990 and \$18,000,000 for the fiscal year 1991 for grants to The Asia Foundation pursuant to this subchapter.

(b) Allocation of funds

Of amounts authorized to be appropriated under subsection (a) of this section, \$1,324,000 for the fiscal year 1990 and \$1,324,000 for the fiscal year 1991 shall be available only for the expansion of programs and services (including the establishment of a field office) for Oceania, comprised of Polynesia, Micronesia, and Melanesia.

(Pub. L. 98-164, title IV, § 404, Nov. 22, 1983, 97 Stat. 1039; Pub. L. 99-93, title IV, § 401, Aug. 16, 1985, 99 Stat. 437; Pub. L. 100-204, title VI, § 601, Dec. 22, 1987, 101 Stat. 1383; Pub. L. 101-246, title V, § 501, Feb. 16, 1990, 104 Stat. 73.)

AMENDMENTS

1990—Pub. L. 101-246 amended section generally. Prior to amendment, section read as follows: "There is authorized to be appropriated to the Secretary of State \$13,700,000 for the fiscal year 1988 and \$15,000,000 for the fiscal year 1989 for grants to the Asia Foundation pursuant to this subchapter."

1987—Pub. L. 100-204 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to the Secretary of State \$10,500,000 for each of the fiscal years 1986 and 1987 for grants to The Asia Foundation pursuant to this subchapter."

1985—Pub. L. 99-93 amended section generally, substituting "\$10,500,000 for each of the fiscal years 1986 and 1987" for "\$5,000,000 for the fiscal year 1983, \$10,000,000 for the fiscal year 1984, and \$10,000,000 for the fiscal year 1985".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4402 of this title.

SUBCHAPTER II—NATIONAL ENDOWMENT FOR DEMOCRACY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2275 of this title.

§ 4411. Findings; statement of purposes

(a) The Congress finds that there has been established in the District of Columbia a private, nonprofit corporation known as the National Endowment for Democracy (hereafter in this subchapter referred to as the "Endowment") which is not an agency or establishment of the United States Government.

(b) The purposes of the Endowment, as set forth in its articles of incorporation, are—

(1) to encourage free and democratic institutions throughout the world through private sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human rights) which are essential to the functioning of democratic institutions;

(2) to facilitate exchanges between United States private sector groups (especially the two major American political parties, labor, and business) and democratic groups abroad;

(3) to promote United States nongovernmental participation (especially through the two major American political parties, labor, business, and other private sector groups) in democratic training programs and democratic institution-building abroad;

(4) to strengthen democratic electoral processes abroad through timely measures in cooperation with indigenous democratic forces;

(5) to support the participation of the two major American political parties, labor, business, and other United States private sector groups in fostering cooperation with those abroad dedicated to the cultural values, institutions, and organizations of democratic pluralism; and

(6) to encourage the establishment and growth of democratic development in a manner consistent both with the broad concerns of United States national interests and with the specific requirements of the democratic groups in other countries which are aided by programs funded by the Endowment.

(Pub. L. 98-164, title V, § 502, Nov. 22, 1983, 97 Stat. 1039.)

SHORT TITLE

Section 501 of title V of Pub. L. 98-164 provided that: "This title [enacting this subchapter] may be cited as the 'National Endowment for Democracy Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4412, 4413 of this title.

§ 4412. Grants to the Endowment

(a) Authorization; funding; grant agreement

The Director of the United States Information Agency shall make an annual grant to the Endowment to enable the Endowment to carry out its purposes as specified in section 4411(b) of this title. Such grants shall be made with funds spe-

cifically appropriated for grants to the Endowment or with funds appropriated to the Agency for the “Salaries and Expenses” account. Such grants shall be made pursuant to a grant agreement between the Director and the Endowment which requires that grant funds will only be used for activities which the Board of Directors of the Endowment determines are consistent with the purposes described in section 4411(b) of this title, that the Endowment will allocate funds in accordance with subsection (e) of this section, and that the Endowment will otherwise comply with the requirements of this subchapter. The grant agreement may not require the Endowment to comply with requirements other than those specified in this subchapter.

(b) Implementation of purposes

Funds so granted may be used by the Endowment to carry out the purposes described in section 4411(b) of this title, and otherwise applicable limitations on the purposes for which funds appropriated to the United States Information Agency may be used shall not apply to funds granted to the Endowment.

(c) Status of Endowment

Nothing in this subchapter shall be construed to make the Endowment an agency or establishment of the United States Government or to make the members of the Board of Directors of the Endowment, or the officers or employees of the Endowment, officers or employees of the United States.

(d) Oversight procedures applicable

The Endowment and its grantees shall be subject to the appropriate oversight procedures of the Congress.

(e) Amounts to Free Trade Union Institute and National Chamber Foundation

Of the amounts made available to the Endowment for each of the fiscal years 1984 and 1985 to carry out programs in furtherance of the purposes of this Act—

- (1) not less than \$13,800,000 shall be for the Free Trade Union Institute; and
- (2) not less than \$2,500,000 shall be to support private enterprise development programs of the National Chamber Foundation.

(f) Independent labor unions

Nothing in this subchapter shall preclude the Endowment from making grants to independent labor unions.

(Pub. L. 98-164, title V, § 503, Nov. 22, 1983, 97 Stat. 1040; Pub. L. 100-204, title II, § 212, Dec. 22, 1987, 101 Stat. 1376.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is Pub. L. 98-164, Nov. 22, 1983, 97 Stat. 1017. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1987—Subsec. (f). Pub. L. 100-204 added subsec. (f).

§ 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

General Accounting 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 General Accounting Office shall have access to 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.)

AMENDMENTS

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”.

§ 4414. Requirements relating to the Endowment and its grantees

(a) Partisan politics

(1) Funds may not be expended, either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office.

(2) No funds granted by the Endowment may be used to finance activities of the Republican National Committee or the Democratic National Committee.

(3) No grants may be made to any institute, foundation, or organization engaged in partisan activities on behalf of the Republican or Democratic National Committee, on behalf of any candidate for public office, or on behalf of any political party in the United States.

(b) Consultation with Department of State

The Endowment shall consult with the Department of State on any overseas program funded by the Endowment prior to the commencement of the activities of that program.

(Pub. L. 98-164, title V, §505, as added Pub. L. 99-93, title II, §210(a), Aug. 16, 1985, 99 Stat. 431.)

§ 4415. Freedom of information

(a) Compliance with Freedom of Information Act

Notwithstanding the fact that the Endowment is not an agency or establishment of the United States Government, the Endowment shall fully comply with all of the provisions of section 552 of title 5.

(b) Publication in Federal Register

For purposes of complying pursuant to subsection (a) of this section with section 552(a)(1) of such title, the Endowment shall make available to the Director of the United States Information Agency such records and other information as the Director determines may be necessary for such purposes. The Director shall cause such records and other information to be published in the Federal Register.

(c) Review by United States Information Agency

(1) In the event that the Endowment determines not to comply with a request for records under section 552, the Endowment shall submit a report to the Director of the United States Information Agency explaining the reasons for not complying with such request.

(2) If the Director approves the determination not to comply with such request, the United States Information Agency shall assume full responsibility, including financial responsibility, for defending the Endowment in any litigation relating to such request.

(3) If the Director disapproves the determination not to comply with such request, the Endowment shall comply with such request.

(Pub. L. 98-164, title V, § 506, as added Pub. L. 99-93, title II, § 210(a), Aug. 16, 1985, 99 Stat. 432.)

CHAPTER 55—RESEARCH AND TRAINING FOR EASTERN EUROPE AND INDEPENDENT STATES OF FORMER SOVIET UNION

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4506.	Reporting requirements.
4507.	Federal control of education prohibited.
4508.	Allocation of funds.
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§ 4501. Findings and declarations

The Congress finds and declares that—

(1) factual knowledge, independently verified, about the countries of Eastern Europe and the independent states of the former Soviet Union is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the countries of Eastern Eu-

rope and the independent states of the former Soviet Union depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

(A) graduate training;

(B) advanced research;

(C) public dissemination of research data, methods, and findings;

(D) contact and collaboration among Government and private specialists; and

(E) firsthand experience of the countries of Eastern Europe and the independent states of the former Soviet Union by American specialists, including on site conduct of advanced training and research to the extent practicable; and

(4) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, State, local, regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range unclassified basis.

(Pub. L. 98-164, title VIII, § 802, Nov. 22, 1983, 97 Stat. 1047; Pub. L. 103-199, title III, § 302(3), Dec. 17, 1993, 107 Stat. 2322.)

AMENDMENTS

1993—Pars. (1), (2), (3)(E). Pub. L. 103-199 substituted “countries of Eastern Europe and the independent states of the former Soviet Union” for “Soviet Union and Eastern European countries”.

SHORT TITLE

Section 801 of title VIII of Pub. L. 98-164, as amended by Pub. L. 103-199, title III, § 302(2), Dec. 17, 1993, 107 Stat. 2322, provided that: “This title [enacting this chapter] may be cited as the ‘Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983’.”

DEFINITIONS

In pars. (1), (2), and (3)(E), independent states of the former Soviet Union has the meaning given in section 5801 of this title, see section 3 of Pub. L. 103-199, set out as a note under section 5801 of this title.

§ 4502. “Institution of higher education” and “Advisory Committee” defined

As used in this chapter—

(1) the term “institution of higher education” has the same meaning given such term in section 1141(a) of title 20; and

(2) the term “Advisory Committee” means the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union established by section 4503(a) of this title.

(Pub. L. 98-164, title VIII, § 803, Nov. 22, 1983, 97 Stat. 1048; Pub. L. 103-199, title III, § 302(4), Dec. 17, 1993, 107 Stat. 2322.)

AMENDMENTS

1993—Par. (2). Pub. L. 103-199 substituted “Advisory Committee for Studies of Eastern Europe and the Inde-