(d) Compliance with Budget Act

Funds are available under this section to the extent and in the amounts provided in appropriation Acts.

(Pub. L. 103–236, title II, § 254, Apr. 30, 1994, 108 Stat. 430.)

§ 6104. Mansfield Fellows on detail from Government service

(a) In general

(1) An agency head may detail, for a period of not more than 2 years, an employee of the agency who has been awarded a Mansfield Fellowship, to the Center.

(2) Each fellow who is detailed under this section shall enter into a written agreement with the Federal Government before receiving a fellowship that the fellow will—

(A) continue in the service of the fellow's agency at the end of the fellowship for a period of at least 2 years unless the fellow is involuntarily separated from the service of such agency; and

(B) pay to the United States Information Agency any additional expenses incurred by the Federal Government in connection with the fellowship if the fellow is voluntarily separated from service with the fellow's agency before the end of the period for which the fellow has agreed to continue in the service of such agency.

(3) The payment agreed to under paragraph (2)(B) may not be required of a fellow who leaves the service of such agency to enter into the service of another agency in any branch of the United States Government unless the head of the agency that authorized the fellowship notifies the employee before the effective date of entry into the service of the other agency that payment will be required under this section.

(b) Status as Government employee

A fellow detailed under subsection (a) of this section is deemed, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of such allowances and other benefits from appropriations available therefore is deemed to comply with section 5536 of title 5.

(c) Reimbursement

Fellows may be detailed under subsection (a) of this section without reimbursement to the United States by the Center.

(d) Allowances and benefits

A fellow detailed under subsection (a) of this section may be paid by the Center for allowances and benefits listed in section 6102(4)(B) of this title.

(Pub. L. 103–236, title II, § 255, Apr. 30, 1994, 108 Stat. 431.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6103 of this title.

§ 6105. Liability for repayments

If any fellow fails to fulfill the fellow's agreement to pay the United States Information Agency for the expenses incurred by the United States Information Agency in connection with the fellowship, a sum equal to the amount of the expenses of the fellowship shall be recoverable by the United States Information Agency from the fellow (or a legal representative) by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the fellow from the Federal Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Federal Government.

(Pub. L. 103–236, title II, § 256, Apr. 30, 1994, 108 Stat. 432.)

§ 6106. Definitions

For purposes of this chapter—

(1) the term ''agency of the United States Government'' includes any agency of the legislative branch and any court of the judicial branch as well as any agency of the executive branch;

(2) the term ''agency head'' means—

(A) in the case of the executive branch of Government or an agency of the legislative branch other than the House of Representatives or the Senate, the head of the respective agency;

(B) in the case of the judicial branch of Government, the chief judge of the respective court;

(C) in the case of the Senate, the President pro tempore, in consultation with the Majority Leader and Minority Leader of the Senate; and

(D) in the case of the House of Representatives, the Speaker of the House, in consultation with the Majority Leader and Minority Leader of the House;

(3) the term ''Center'' means the Mansfield Center for Pacific Affairs; and

(4) the term ''detailee'' means an employee of an agency of the United States Government on assignment or loan to the Mansfield Center for Pacific Affairs without a change of position from the agency by which he or she is employed.

(Pub. L. 103–236, title II, § 257, Apr. 30, 1994, 108 Stat. 432.)

CHAPTER 71—UNITED STATES INTERNATIONAL BROADCASTING

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§ 6201. Congressional findings and declaration of purposes

The Congress makes the following findings and declarations:

(1) It is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom ''to seek, receive, and impart information and ideas through any media and regardless of frontiers,'' in accordance with Article 19 of the Universal Declaration of Human Rights.

(2) Open communication of information and ideas among the peoples of the world contributes to international peace and stability and the promotion of such communication is in the interests of the United States.

(3) It is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter.

(4) The continuation of existing United States international broadcasting, and the creation of a new broadcasting service to the people of the People's Republic of China and other countries of Asia which lack adequate sources of free information, would enhance the promotion of information and ideas, while advancing the goals of United States foreign policy.

(5) The reorganization and consolidation of United States international broadcasting will achieve important economies and strengthen the capability of the United States to use broadcasting to support freedom and democracy in a rapidly changing international environment.

(Pub. L. 103–236, title III, § 302, Apr. 30, 1994, 108 Stat. 432.)

REFERENCES IN TEXT

This chapter, referred to in par. (3), was in the original ''this title'', meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, as amended, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 301 of title III of Pub. L. 103–236 provided that: ''This title [enacting this chapter, amending sections 1465b, 1465c, and 2873 of this title and section 5315 of Title 5, Government Organization and Employees, and repealing sections 1463, 2871 to 2877, and 2878 to 2883 of this title and provisions set out as a note under section 2871 of this title] may be cited as the 'United States International Broadcasting Act of 1994'.''

SECTION REFERRED TO IN OTHER SECTIONS This section is referred to in section 6211 of this title.

§ 6202. Standards and principles

(a) Broadcasting standards

United States international broadcasting shall—

(1) be consistent with the broad foreign policy objectives of the United States;

(2) be consistent with the international telecommunications policies and treaty obligations of the United States;

(3) not duplicate the activities of private United States broadcasters;

(4) not duplicate the activities of government supported broadcasting entities of other democratic nations;

(5) be conducted in accordance with the highest professional standards of broadcast journalism;

(6) be based on reliable information about its potential audience; and

(7) be designed so as to effectively reach a significant audience.

(b) Broadcasting principles

United States international broadcasting shall include—

(1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;

(2) a balanced and comprehensive projection of United States thought and institutions, re-

flecting the diversity of United States culture and society;

(3) clear and effective presentation of the policies of the United States Government and responsible discussion and opinion on those policies;

(4) programming to meet needs which remain unserved by the totality of media voices available to the people of certain nations;

(5) information about developments in each significant region of the world;

(6) a variety of opinions and voices from within particular nations and regions prevented by censorship or repression from speaking to their fellow countrymen;

(7) reliable research capacity to meet the criteria under this section;

(8) adequate transmitter and relay capacity to support the activities described in this section; and

(9) training and technical support for independent indigenous media through government agencies or private United States entities.

(c) Voice of America broadcasts

The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussions and opinion on these policies.

(Pub. L. 103–236, title III, § 303, Apr. 30, 1994, 108 Stat. 433; Pub. L. 103–415, § 1(p), Oct. 25, 1994, 108 Stat. 4301.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–415 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6204 of this title.

§ 6203. Establishment of Broadcasting Board of Governors

(a) Establishment

There is hereby established within the United States Information Agency a Broadcasting Board of Governors (hereafter in this chapter referred to as the ''Board'').

(b) Composition of Board

(1) The Board shall consist of 9 members, as follows:

(A) 8 voting members who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) The Director of the United States Information Agency who shall also be a voting member.

(2) The President shall designate one member (other than the Director of the United States Information Agency) as Chairman of the Board.

(3) Exclusive of the Director of the United States Information Agency, not more than 4 of the members of the Board appointed by the President shall be of the same political party.

(c) Term of office

The term of office of each member of the Board shall be three years, except that the Director of the United States Information Agency shall remain a member of the Board during the Director's term of service. Of the other 8 voting members, the initial terms of office of two members shall be one year, and the initial terms of office of 3 other members shall be two years, as determined by the President. The President shall appoint, by and with the advice and consent of the Senate, Board members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until a successor has been appointed and qualified. When there is no Director of the United States Information Agency, the acting Director of the agency shall serve as a member of the Board until a Director is appointed.

(d) Selection of Board

Members of the Board appointed by the President shall be citizens of the United States who are not regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of mass communications, print, broadcast media, or foreign affairs.

(e) Compensation

Members of the Board, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section (including travel time) shall be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5. While away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The Director of the United States Information Agency shall not be entitled to any compensation under this chapter, but may be allowed travel expenses as provided under this subsection.

(f) Decisions

Decisions of the Board shall be made by majority vote, a quorum being present. A quorum shall consist of 5 members.

(Pub. L. 103–236, title III, § 304, Apr. 30, 1994, 108 Stat. 434.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6207 of this title.

§ 6204. Authorities of Board

(a) Authorities

The Board shall have the following authorities:

(1) To direct and supervise all broadcasting activities conducted pursuant to this chapter, the Radio Broadcasting to Cuba Act [22 U.S.C. 1465 et seq.], and the Television Broadcasting to Cuba Act [22 U.S.C. 1465aa et seq.].

(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States.

(3) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 6202 of this title.

(4) To review, evaluate, and determine, at least annually, the addition or deletion of language services.

(5) To make and supervise grants for broadcasting and related activities in accordance with sections 6207 and 6208 of this title.

(6) To allocate funds appropriated for international broadcasting activities among the various elements of the International Broadcasting Bureau and grantees, subject to the limitations in sections 6207 and 6208 of this title and subject to reprogramming notification requirements in law for the reallocation of funds.

(7) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

(9) To submit to the President and the Congress, through the Director of the United States Information Agency, an annual report which summarizes and evaluates activities under this chapter, the Radio Broadcasting to Cuba Act [22 U.S.C. 1465 et seq.], and the Television Broadcasting to Cuba Act [22 U.S.C. 1465aa et seq.].

(10) To the extent considered necessary to carry out the functions of the Board, procure supplies, services, and other personal property.

(11) To appoint such staff personnel for the Board as the Board may determine to be necessary, subject to the provisions of title 5 governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(12) To obligate and expend, for official reception and representation expenses, such amount as may be made available through appropriations (which for each of the fiscal years 1994 and 1995 may not exceed the amount made available to the Board for International Broadcasting for such purposes for fiscal year 1993).

(13) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Bureau and by grantees and the steps the Board has taken to reduce unnecessary overhead costs for each of the broadcasting services.

(14) The Board may provide for the use of United States Government transmitter capacity for relay of Radio Free Asia.

(b) Broadcasting budgets

(1) The Director of the Bureau and the grantees identified in sections 6207 and 6208 of this title shall submit proposed budgets to the Board. The Board shall forward its recommendations concerning the proposed budget for the Board and broadcasting activities under this chapter, the Radio Broadcasting to Cuba Act [22 U.S.C. 1465 et seq.], and the Television Broadcasting to Cuba Act [22 U.S.C. 1465aa et seq.] to the Director of the United States Information Agency for the consideration of the Director as a part of the Agency's budget submission to the Office of Management and Budget.

(2) The Director of the United States Information Agency shall include in the Agency's submission to the Office of Management and Budget the comments and recommendations of the Board concerning the proposed broadcasting budget.

(c) Implementation

The Director of the United States Information Agency and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and grantees.

(Pub. L. 103–236, title III, § 305, Apr. 30, 1994, 108 Stat. 435; Pub. L. 103–415, § 1(s)(1), Oct. 25, 1994, 108 Stat. 4302.)

REFERENCES IN TEXT

The Radio Broadcasting to Cuba Act, referred to in subsecs. (a)(1), (9) and (b)(1), is Pub. L. 98–111, Oct. 4, 1983, 97 Stat. 749, as amended, which is classified generally to subchapter V–A (§ 1465 et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465 of this title and Tables.

The Television Broadcasting to Cuba Act, referred to in subsecs. (a)(1), (9) and (b)(1), is part D of title II of Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 58, as amended, which is classified principally to subchapter V–B (§ 1465aa et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465aa of this title and Tables.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(11), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

Section is comprised of section 305 of Pub. L. 103–236. Subsec. (d) of section 305 of Pub. L. 103–236 amended sections 1465b and 1465c of this title.

AMENDMENTS

1994—Subsec. (a)(14). Pub. L. 103–415 substituted ''relay of Radio'' for ''relay to Radio''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6207, 6208 of this title.

§ 6205. Foreign policy guidance

To assist the Board in carrying out its functions, the Secretary of State, acting through the Director of the United States Information Agen-

cy, shall provide information and guidance on foreign policy issues to the Board.

(Pub. L. 103–236, title III, § 306, Apr. 30, 1994, 108 Stat. 436.)

§ 6206. International Broadcasting Bureau

(a) Establishment

There is hereby established an International Broadcasting Bureau within the United States Information Agency (hereafter in this chapter referred to as the ''Bureau''), to carry out all nonmilitary international broadcasting activities supported by the United States Government other than those described in sections 6207 and 6208 of this title.

(b) Selection of Director of Bureau

(1) The Director of the Bureau shall be appointed by the Chairman of the Board, in consultation with the Director of the United States Information Agency and with the concurrence of a majority of the Board. The Director of the Bureau shall be entitled to receive compensation at the rate prescribed by law for level IV of the Executive Schedule.

(2) Omitted.

(Pub. L. 103–236, title III, § 307, Apr. 30, 1994, 108 Stat. 436.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b)(1), is set out in section 5315 of Title 5, Government Organization and Employees.

CODIFICATION

Section is comprised of section 307 of Pub. L. 103–236. Subsec. (b)(2) of section 307 of Pub. L. 103–236 amended section 5315 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6211, 6213 of this title.

§ 6207. Limits on grants for Radio Free Europe and Radio Liberty

(a) Board of RFE/RL, Incorporated

The Board may not make any grant to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Broadcasting Board of Governors established under section 6203 of this title and of no other members; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it considers necessary to carry out the purposes of the grant provided under this chapter.

(b) Location of principal place of business

(1) The Board may not make any grant to RFE/RL, Incorporated unless the headquarters of RFE/RL, Incorporated and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of RFE/RL, Incorporated who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(c) Limitation on grant amounts

The total amount of grants made by the Board for the operating costs of Radio Free Europe and Radio Liberty may not exceed $75,000,000 for any fiscal year after fiscal year 1995.

(d) Alternative grantee

If the Board determines at any time that RFE/RL, Incorporated, is not carrying out the functions described in section 6208 of this title in an effective and economical manner, the Board may award the grant to carry out such functions to another entity after soliciting and considering applications from eligible entities in such manner and accompanied by such information as the Board may reasonably require.

(e) Not a Federal agency or instrumentality

Nothing in this chapter may be construed to make RFE/RL, Incorporated a Federal agency or instrumentality.

(f) Authority

Grants authorized under section 6204 of this title for RFE/RL, Incorporated, shall be available to make annual grants for the purpose of carrying out similar functions as were carried out by RFE/RL, Incorporated, on the day before April 30, 1994, with respect to Radio Free Europe and Radio Liberty, consistent with section 2 of the Board for International Broadcasting Act of 1973 [22 U.S.C. 2871], as in effect on such date.

(g) Grant agreement

Grants to RFE/RL, Incorporated, by the Board shall only be made in compliance with a grant agreement. The grant agreement shall establish guidelines for such grants. The grant agreement shall include the following provisions—

(1) that a grant be used only for activities which the Board determines are consistent with the purposes of subsection (f) of this section;

(2) that RFE/RL, Incorporated, shall otherwise comply with the requirements of this section;

(3) that failure to comply with the requirements of this section may result in suspension or termination of a grant without further obligation by the Board or the United States;

(4) that duplication of language services and technical operations between RFE/RL, Incorporated and the International Broadcasting Bureau be reduced to the extent appropriate, as determined by the Board; and

(5) that RFE/RL, Incorporated, justify in detail each proposed expenditure of grant funds, and that such funds may not be used for any other purpose unless the Board gives its prior written approval.

(h) Prohibited uses of grant funds

No grant funds provided under this section may be used for the following purposes:

(1)(A) Except as provided in subparagraph (B), to pay any salary or other compensation, or enter into any contract providing for the payment of salary or compensation in excess of the rates established for comparable positions under title 5 or the foreign relations laws of the United States, except that no employee may be paid a salary or other compensation in excess of the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5.

(B) Salary and other compensation limitations under subparagraph (A) shall not apply prior to October 1, 1995, with respect to any employee covered by a union agreement requiring a salary or other compensation in excess of such limitations.

(2) For any activity for the purpose of influencing the passage or defeat of legislation being considered by Congress.

(3) To enter into a contract or obligation to pay severance payments for voluntary separation for employees hired after December 1, 1990, except as may be required by United States law or the laws of the country where the employee is stationed.

(4) For first class travel for any employee of RFE/RL, Incorporated, or the relative of any employee.

(5) To compensate freelance contractors without the approval of the Board.

(i) Report on management practices

(1)[1] Effective not later than March 31 and September 30 of each calendar year, the Inspector General of the United States Information Agency shall submit to the Board, the Director of the United States Information Agency, and the Congress a report on management practices of RFE/RL, Incorporated, under this section. The Inspector General of the United States Information Agency shall establish a special unit within the Inspector General's office to monitor and audit the activities of RFE/RL, Incorporated, and shall provide for on-site monitoring of such activities.

(j) Audit authority

(1) Such financial transactions of RFE/RL, Incorporated, as relate to functions carried out under this section 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 RFE/RL, Incorporated, are normally kept.

(2) Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by RFE/RL, Incorporated pertaining to such financial transactions and necessary to facilitate an audit. Such representatives 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 RFE/RL, Incorporated, shall remain in the possession and custody of RFE/RL, Incorporated.

(3) Notwithstanding any other provision of law and upon repeal of the Board for International Broadcasting Act [22 U.S.C. 2871 et seq.], the Inspector General of the United States Information Agency is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL, Incorporated.

(k) Plan for relocation

None of the funds authorized to be appropriated for the fiscal years[2] 1994 or 1995 may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany, unless—

(1) such relocation is specifically provided for in an appropriation Act or pursuant to a reprogramming notification; and

(2)(A) such relocation is authorized by the Board and the Board submits to the Comptroller General of the United States and the appropriate Congressional[3] committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation; or

(B) prior to the confirmation of all members of the Board, such relocation is authorized by the President, the President certifies that a significant national interest requires that such relocation determination be made before the confirmation of all members of the Board, and the President submits to the Comptroller General of the United States and the appropriate congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation.

***(l)* Reports on personnel classification**

Not later than 90 days after the date of confirmation of all members of the Board, the Board shall submit a report to the Congress containing a justification, in terms of the types of duties performed at specific rates of salary and other compensation, of the classification of personnel employed by RFE/RL, Incorporated. The report shall include a comparison of the rates of salary or other compensation and classifications provided to employees of RFE/RL, Incorporated, with the rates of salary or other compensation and classifications of employees of the Voice of America stationed overseas in comparable positions and shall identify any disparities and steps which should be taken to eliminate such disparities.

(Pub. L. 103–236, title III, § 308, Apr. 30, 1994, 108 Stat. 437.)

REFERENCES IN TEXT

The foreign relations laws of the United States, referred to in subsec. (h)(1)(A), are classified generally to this title.

The Board for International Broadcasting Act, referred to in subsecs. (f) and (j)(3), is Pub. L. 93–129, Oct.

[1] So in original. No par. (2) has been enacted.

[2] So in original. Probably should be "year".

[3] So in original. Probably should not be capitalized.

19, 1973, 87 Stat. 456, as amended, which was classified generally to chapter 43 (§ 2871 et seq.) of this title prior to repeal by Pub. L. 103–236, title III, § 310(e), Apr. 30, 1994, 108 Stat. 442. See section 6209(e) of this title.

The Inspector General Act of 1978, referred to in subsec. (j)(3), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

LIAISON WITH RFE/RL, INCORPORATED; REPRESENTATION AT BOARD MEETINGS

Section 305(b) of Pub. L. 99–93 provided that: ''The Secretary of State shall—

''(1) establish an office within the United States Consulate in Munich, Federal Republic of Germany, which shall be responsible for the daily liaison operations of the Department of State with RFE/RL, Incorporated; and

''(2) be represented by an observer at each meeting of the Board for International Broadcasting and of the Board of Directors of RFE/RL, Incorporated.''

PRESIDENTIAL DETERMINATION ON RFE/RL RELOCATION

Determination of President of the United States, No. 94–32, July 12, 1994, 59 F.R. 37649, provided:

Pursuant to the authority vested in me by section 308(k) of the United States International Broadcasting Act of 1994 (Public Law 103–236) [22 U.S.C. 6207(k)] (the ''Act''), I hereby certify that significant national interest requires a relocation of the operations of RFE/RL, Incorporated from Munich, Germany, to Prague, Czech Republic, before the confirmation of a new Board of Broadcasting Governors can be completed.

You are authorized and directed to transmit this determination to the appropriate committees of the Congress (as defined in section 314 of the Act [22 U.S.C. 6213]) and to arrange for its publication in the Federal Register.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6204, 6206 of this title.

§ 6208. Radio Free Asia

(a) Authority

(1) Grants authorized under section 6204 of this title shall be available to make annual grants for the purpose of carrying out radio broadcasting to the following countries: The People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam.

(2) Such broadcasting service shall be referred to as ''Radio Free Asia''.

(b) Functions

Radio Free Asia shall—

(1) provide accurate and timely information, news, and commentary about events in the respective countries of Asia and elsewhere; and

(2) be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(c) Submission of detailed plan for Radio Free Asia

(1) No grant may be awarded to carry out this section unless the Board, through the Director of the United States Information Agency, has submitted to Congress a detailed plan for the establishment and operation of Radio Free Asia, including—

(A) a description of the manner in which Radio Free Asia would meet the funding limitations provided in subsection (d)(4) of this section;

(B) a description of the numbers and qualifications of employees it proposes to hire; and

(C) how it proposes to meet the technical requirements for carrying out its responsibilities under this section.

(2) The plan required by paragraph (1) shall be submitted not later than 90 days after the date on which all members of the Board are confirmed.

(3) No grant may be awarded to carry out the provisions of this section unless the plan submitted by the Board includes a certification by the Board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) of this section and subsection (d)(5) of this section.

(4) If the Board determines that a Radio Free Asia cannot be established or operated effectively within the funding limitations provided for in this section, the Board may submit, through the Director of the United States Information Agency, an alternative plan and such proposed changes in legislation as may be necessary to the appropriate congressional committees.

(d) Grant agreement

Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

(1)(A) The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(B) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of Radio Free Asia who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government, and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 1999.

(3) Any grant agreement shall require that any lease agreements entered into by Radio Free Asia shall be, to the maximum extent possible, assignable to the United States Government.

(4) Grants made for the operating costs of Radio Free Asia may not exceed $22,000,000 in any fiscal year.

(5) The total amount of grant funds made available for one-time capital costs of Radio Free Asia may not exceed $8,000,000.

(6) Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

(e) Limitations on administrative and managerial costs

It is the sense of the Congress that administrative and managerial costs for operation of Radio Free Asia should be kept to a minimum and, to the maximum extent feasible, should not exceed the costs that would have been incurred if Radio Free Asia had been operated as a Federal entity rather than as a grantee.

(f) Assessment of effectiveness of Radio Free Asia

Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on—

(1) whether Radio Free Asia is technically sound and cost-effective,

(2) whether Radio Free Asia consistently meets the standards for quality and objectivity established by this chapter,

(3) whether Radio Free Asia is received by a sufficient audience to warrant its continuation,

(4) the extent to which such broadcasting is already being received by the target audience from other credible sources; and

(5) the extent to which the interests of the United States are being served by maintaining broadcasting of Radio Free Asia.

(g) Sunset provision

The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 1998, unless the President of the United States determines in the President's fiscal year 1999 budget submission that continuation of funding for Radio Free Asia for 1 additional year is in the interest of the United States.

(h) Notification and consultation regarding displacement of Voice of America broadcasting

The Board shall notify the appropriate congressional committees before entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia. The Chairman of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities.

(i) Not a Federal agency or instrumentality

Nothing in this chapter may be construed to make Radio Free Asia a Federal agency or instrumentality.

(Pub. L. 103–236, title III, § 309, Apr. 30, 1994, 108 Stat. 439; Pub. L. 103–415, § 1(s)(2), Oct. 25, 1994, 108 Stat. 4302.)

AMENDMENTS

1994—Subsec. (d)(1)(B). Pub. L. 103–415 inserted ''of all members'' after ''confirmation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6204, 6206, 6207 of this title.

§ 6209. Transition

(a) Authorization

(1) The President is authorized consistent with the purposes of this Act to direct the transfer of all functions and authorities from the Board for International Broadcasting to the United States Information Agency, the Board, or the Bureau as may be necessary to implement this chapter.

(2)(A) Not later than 120 days after April 30, 1994, the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting shall jointly prepare and submit to the President for approval and implementation a plan to implement the provisions of this chapter. Such plan shall include at a minimum a detailed cost analysis to implement fully the recommendations of such plan. The plan shall identify all costs in excess of those authorized for such purposes and shall provide that any excess cost to implement the plan shall be derived only from funds authorized in section 201 of this Act.

(B) The President shall transmit copies of the approved plan, together with any recommendations for legislative changes that may be necessary, to the appropriate congressional committees.

(b) New appointees

The Director of the United States Information Agency may assign employees of the Agency for service with RFE/RL, Incorporated, with the concurrence of the president of RFE/RL, Incorporated. Such assignment shall not affect the rights and benefits of such personnel as employees of the United States Information Agency.

(c) Board for International Broadcasting personnel

All Board for International Broadcasting full-time United States Government personnel (except special Government employees) and part-time United States Government personnel holding permanent positions shall be transferred to the United States Information Agency, the Board, or the Bureau. Such transfer shall not cause any such employee to be separated or reduced in grade or compensation.

(d) Other authorities

The Director of the United States Information Agency is authorized to utilize the provisions of titles VIII and IX of the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1471 et seq., 1478, 1479], and any other authority available to the Director on April 30, 1994, to the extent that the Director considers necessary in carrying out the provisions and purposes of this chapter.

(e) Repeal

The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed effective September 30, 1995, or the date on which all members of the Board are confirmed, whichever is earlier.[1]

(f) Savings provisions

(1) Continuing effect of legal documents

All orders, determinations, rules, regulations, permits, agreements, grants, contracts,

[1] See References in Text note below.

certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter; and

(B) which are in effect at the time this chapter takes effect, or were final before the effective date of this chapter and are to become effective on or after the effective date of this chapter,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the United States Information Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) Proceedings not affected

The provisions of this chapter shall not affect any proceedings pending before the Board for International Broadcasting at the time this chapter takes effect, with respect to functions transferred by this chapter, but such proceedings shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the termination or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been terminated or modified if this chapter had not been enacted.

(3) Suits not affected

The provisions of this chapter shall not affect suits commenced before the effective date of this chapter, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this chapter had not been enacted.

(4) Nonabatement of actions

No suit, action, or other proceeding commenced by or against the Board for International Broadcasting or by or against any individual in the official capacity of such individual as an officer of the Board for International Broadcasting shall abate by reason of the enactment of this chapter.

(5) Administrative actions relating to promulgation of regulations

Any administrative action relating to the preparation or promulgation of a regulation by the Board for International Broadcasting relating to a function transferred under this chapter may be continued by the United States Information Agency with the same effect as if this chapter had not been enacted.

(6) References

A reference in any provision of law, reorganization plan, or other authority to the Associate Director for Broadcasting of the United States Information Agency shall be considered to be a reference to the Director of the International Broadcasting Bureau of the United States Information Agency.

(7) Effect on other laws

The provisions of, and authorities contained in or transferred pursuant to, this chapter are not intended to repeal, limit, or otherwise derogate from the authorities or functions of or available to the Director of the United States Information Agency or the Secretary of State under law, reorganization plan, or otherwise, unless such provision hereof—

(A) specifically refers to the provision of law or authority existing on the effective date of this chapter, so affected; or

(B) is in direct conflict with such law or authority existing on the effective date of this chapter.

(Pub. L. 103–236, title III, § 310, Apr. 30, 1994, 108 Stat. 442.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), is Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 382, known as the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. Section 201 of the Act, 108 Stat. 420, is not classified to the Code. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

The United States Information and Educational Exchange Act of 1948, referred to in subsec. (d), is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended. Title VIII of the Act is classified generally to subchapter VIII (§ 1471 et seq.) of chapter 18 of this title. Title IX of the Act is classified to sections 1478 and 1479 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

The Board for International Broadcasting Act of 1973, referred to in subsec. (e), is Pub. L. 93–129, Oct. 19, 1973, 87 Stat. 456, as amended, which was classified generally to chapter 43 (§ 2871 et seq.) of this title. As to the date on which all members of the Broadcasting Board of Governors are confirmed, the Members of the Board were confirmed by the Senate on Aug. 11, 1995, see Cong. Rec., vol. 141, p. S12519, Daily Issue.

The effective date of this chapter, referred to in subsec. (f)(1)(B), (3), (7), probably means the date of enactment of title III of Pub. L. 103–236 which enacted this chapter and was approved Apr. 30, 1994.

§ 6210. Preservation of American jobs

It is the sense of the Congress that the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting should, in developing the plan for consolidation and reorganization of overseas international broadcasting services, limit, to the maximum extent feasible, consistent with the purposes of the consolidation, elimination of any United States-based positions and should affirmatively seek to transfer as many positions as possible to the United States.

(Pub. L. 103–236, title III, § 311, Apr. 30, 1994, 108 Stat. 444.)

§ 6211. Privatization of Radio Free Europe and Radio Liberty

(a) Declaration of policy

It is the sense of the Congress that, in furtherance of the objectives of section 6201 of this

title, the funding of Radio Free Europe and Radio Liberty should be assumed by the private sector not later than December 31, 1999, and that the funding of Radio Free Europe and Radio Liberty Research Institute should be assumed by the private sector at the earliest possible time.

(b) Presidential submission

The President shall submit with his annual budget submission as provided for in section 6206[1] of this title an analysis and recommendations for achieving the objectives of subsection (a) of this section.

(c) Reports on transfer of RFE/RL Research Institute

Not later than 120 days after April 30, 1994, the Board for International Broadcasting, or the Board, if established, shall submit to the appropriate congressional committees a report on the steps being taken to transfer RFE/RL Research Institute pursuant to subsection (a) of this section and shall provide periodic progress reports on such efforts until such transfer has been achieved.

(Pub. L. 103–236, title III, § 312, Apr. 30, 1994, 108 Stat. 444.)

§ 6212. Requirement for authorization of appropriations

(a) Limitation on obligation and expenditure of funds

Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent fiscal year, any funds appropriated for the purposes of broadcasting subject to the direction and supervision of the Board shall not be available for obligation or expenditure—

(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

(2) in excess of the authorized level of appropriations.

(b) Subsequent authorization

The limitation under subsection (a) of this section shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

(c) Application

The provisions of this section—

(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered under or pursuant to this chapter.

(Pub. L. 103–236, title III, § 313, Apr. 30, 1994, 108 Stat. 444.)

CONTINUED AVAILABILITY OF FUNDS FOLLOWING REPEAL OF BOARD FOR INTERNATIONAL BROADCASTING ACT OF 1973

Pub. L. 103–317, title V, Aug. 26, 1994, 108 Stat. 1771, provided in part: ''That on the date upon which the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed, as provided for by section 310(e) of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 (Public Law 103–236; 108 Stat. 442) [22 U.S.C. 6209(e)], funds made available for expenses of the Board for International Broadcasting shall be made available until expended only for expenses necessary to enable the Broadcasting Board of Governors to carry out the authorities provided in section 305(a) of Public Law 103–236 [22 U.S.C. 6204(a)], including the appointment of staff personnel as authorized by section 305(a)(11) of Public Law 103–236: *Provided further*, That such amounts appropriated to the Board for International Broadcasting in fiscal year 1994 as are certified by the Office of Management and Budget to the Congress as gains due to the fluctuation of foreign currency, may be used in fiscal year 1995 and thereafter either to offset foreign currency losses or to offset unfunded RFE/RL costs associated with the implementation of Public Law 103–236 [see Tables for classification]: *Provided further*, That obligated but unexpended balances appropriated in fiscal year 1990 to fund planned transmitter modernization expenses may be expended in fiscal year 1995 for unfunded RFE/RL costs associated with the implementation of Public Law 103–236''.

§ 6213. Definitions

For the purposes of this chapter—

(1) the term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives;

(2) the term ''RFE/RL, Incorporated'' includes—

(A) the corporation having the corporate title described in section 6206(b)(3)[1] of this title; and

(B) any alternative grantee described in section 6206(e)[2] of this title; and

(3) the term ''salary or other compensation'' includes any deferred compensation or pension payments, any payments for expenses for which the recipient is not obligated to itemize, and any payments for personnel services provided to an employee of RFE/RL, Incorporated.

(Pub. L. 103–236, title III, § 314, Apr. 30, 1994, 108 Stat. 445.)

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.

§ 6214. Relocation costs

Notwithstanding any other provision of law, funds derived from the sale of real property assets of RFE/RL in Munich, Germany, may be retained, obligated, and expended to meet one-time costs associated with the consolidation of United States Government broadcasting activities in accordance with this chapter, including the costs of relocating RFE/RL offices and operations.

(Pub. L. 103–236, title III, § 315(d), as added Pub. L. 103–415, § 1(*ll*), Oct. 25, 1994, 108 Stat. 4303.)

[1] Section 6206 of this title does not relate to annual budget submissions.

[1] So in original. There is no section ''6206(b)(3)''.

[2] So in original. Probably should be section ''6207(d)''.

CHAPTER 72—NUCLEAR PROLIFERATION PREVENTION

SUBCHAPTER I—SANCTIONS FOR NUCLEAR PROLIFERATION

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SUBCHAPTER I—SANCTIONS FOR NUCLEAR PROLIFERATION

§ 6301. Imposition of procurement sanction on persons engaging in export activities that contribute to proliferation

(a) Determination by President

(1) In general

Except as provided in subsection (b)(2) of this section, the President shall impose the sanction described in subsection (c) of this section if the President determines in writing that, on or after the effective date of this subchapter, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 6305(2) of this title), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) Persons against which the sanction is to be imposed

The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) Other sanctions available

The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) Definition

For purposes of this subsection, the term ''requisite knowledge'' means situations in which a person ''knows'', as ''knowing'' is defined in section 78dd–2 of title 15.

(b) Consultation with and actions by foreign government of jurisdiction

(1) Consultations

If the President makes a determination described in subsection (a)(1) of this section with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) Actions by government of jurisdiction

In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1) of this section. The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) Report to Congress

Not later than 90 days after making a determination under subsection (a)(1) of this section, the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate