

(4) Prohibition against bias

The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

(5) Technical

In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

(6) Report

Not later than 90 days after an evaluation of the student achievement levels under section 9010(e) of this title, the Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

(f) Personnel

(1) In general

In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) Staff

(A) In general

The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

(B) Technical employees

Such appointments may include, for terms not to exceed 3 years and without regard to the provisions of title 5 governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) Coordination

The Commissioner and the Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

(h) Administration

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board, other than sections 10, 11, and 12 of such Act.

(Pub. L. 103-382, title IV, §412, Oct. 20, 1994, 108 Stat. 4039; Pub. L. 106-554, §1(a)(1) [title III, §307], Dec. 21, 2000, 114 Stat. 2763, 2763A-44; Pub. L. 107-110, title VI, §602(b), Jan. 8, 2002, 115 Stat. 1904.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (f)(2)(B),

are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2002—Pub. L. 107-110 amended section generally, restating and expanding provisions.

2000—Subsec. (c)(1). Pub. L. 106-554, §1(a)(1) [title III, §307(1)], substituted “4 years” for “3 years”.

Subsec. (c)(4). Pub. L. 106-554, §1(a)(1) [title III, §307(2)], added par. (4).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities 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. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9010, 9012 of this title.

§ 9012. Authorization of appropriations

(a) In general

There are authorized to be appropriated \$65,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out this chapter (other than sections 9010 and 9011 of this title).

(b) National Assessment

There are authorized to be appropriated \$35,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 9010 of this title.

(c) Governing Board

There are authorized to be appropriated \$3,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 9011 of this title.

(Pub. L. 103-382, title IV, §413, Oct. 20, 1994, 108 Stat. 4041.)

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CODIFICATION

Title II of Pub. L. 94-462, comprising this chapter, was originally enacted as Pub. L. 94-462, title II, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96-496, title II, §201, Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98-306, §§8-11, May 31, 1984, 98 Stat. 225; Pub. L. 99-194, title II, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101-512, title III, §318 [title II, §§201, 202(a)(1), (b), 203-205], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, known as the Museum Services Act, and classified to section 961 et seq. of this title. Title II is shown, herein, however, as having been added by Pub. L. 104-208 without reference to such intervening amendments because of the extensive amendments to the provisions of title II by Pub. L. 104-208.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1504 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 9101. General definitions

As used in this chapter:

(1) Commission

The term “Commission” means the National Commission on Libraries and Information Science established under section 1502 of this title.

(2) Director

The term “Director” means the Director of the Institute appointed under section 9103 of this title.

(3) Institute

The term “Institute” means the Institute of Museum and Library Services established under section 9102 of this title.

(4) Museum Board

The term “Museum Board” means the National Museum Services Board established under section 9175 of this title.

(Pub. L. 94-462, title II, §202, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-294.)

PRIOR PROVISIONS

A prior section 202 of Pub. L. 94-462 was classified to section 961 of this title prior to the general amendment of title II of Pub. L. 94-462 by Pub. L. 104-208.

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-128, §1, Dec. 1, 1997, 111 Stat. 2548, provided that: “This Act [amending sections 9105, 9122, 9131, 9133, 9161, and 9162 of this title] may be cited as the ‘Museum and Library Services Technical and Conforming Amendments of 1997.’”

SHORT TITLE

Section 101(e) [title VII, §701] of title I of div. A of Pub. L. 104-208 provided that: “This title [enacting this chapter, amending sections 1069b, 1504, 1505, 3441, 3473, 3489, 6621, 6645, 6648, 6649, 6813, 8091, 8102, and 8104 of this title, section 5315 of Title 5, Government Organization and Employees, section 276d-3 of Title 40, Public Buildings, Property, and Works, section 214 of Title 40, Appendix, section 3338 of Title 42, The Public Health and

Welfare, section 254 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and section 1666 of Title 48, Territories and Insular Possessions, repealing sections 351 to 386g, 1021 to 1047, 1221i, and 7001 to 7005 of this title, enacting provisions set out under this section and sections 9102, 9103, and 9105 of this title, and repealing provisions set out as notes under sections 351 and 1029 of this title] may be cited as the ‘Museum and Library Services Act of 1996.’”

Section 201 of title II of Pub. L. 94-462, as added by Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-294, provided that: “This title [enacting this chapter] may be cited as the ‘Museum and Library Services Act.’”

Section 211 of title II of Pub. L. 94-462, as added by Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-295, provided that: “This subtitle [subtitle B (§§211-263) of title II of Pub. L. 94-462, enacting subchapter II of this chapter] may be cited as the ‘Library Services and Technology Act.’”

§ 9102. Institute of Museum and Library Services

(a) Establishment

There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

(b) Offices

The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

(Pub. L. 94-462, title II, §203, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-294.)

PRIOR PROVISIONS

A prior section 203 of Pub. L. 94-462 was classified to section 962 of this title prior to the general amendment of title II of Pub. L. 94-462 by Pub. L. 104-208.

TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES

Section 101(e) [title VII, §704] of Pub. L. 104-208 provided that:

“(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

“(1) the term ‘Federal agency’ has the meaning given to the term ‘agency’ by section 551(1) of title 5, United States Code;

“(2) the term ‘function’ means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

“(3) the term ‘office’ includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

“(b) TRANSFER OF FUNCTIONS FROM THE INSTITUTE OF MUSEUM SERVICES AND THE LIBRARY PROGRAM OFFICE.—There are transferred to the Director of the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act [20 U.S.C. 9102]—

“(1) all functions that the Director of the Institute of Museum Services exercised before the date of enactment of this section [Sept. 30, 1996] (including all related functions of any officer or employee of the Institute of Museum Services); and

“(2) all functions that the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education exercised before the date of enactment of this section and any related function of any officer or employee of the Department of Education.

“(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

“(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Director of the Institute of Museum and Library Services may delegate any of the functions transferred to the Director of the Institute of Museum and Library Services by this section and any function transferred or granted to such Director of the Institute of Museum and Library Services after the effective date of this section [Sept. 30, 1996] to such officers and employees of the Institute of Museum and Library Services as the Director of the Institute of Museum and Library Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate, except that any delegation of any such functions with respect to libraries shall be made to the Deputy Director of the Office of Library Services and with respect to museums shall be made to the Deputy Director of the Office of Museum Services. No delegation of functions by the Director of the Institute of Museum and Library Services under this section or under any other provision of this section shall relieve such Director of the Institute of Museum and Library Services of responsibility for the administration of such functions.

“(e) REORGANIZATION.—The Director of the Institute of Museum and Library Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Institute of Museum and Library Services, and may establish, consolidate, alter, or discontinue such organizational entities in the Institute of Museum and Library Services as may be necessary or appropriate.

“(f) RULES.—The Director of the Institute of Museum and Library Services may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director of the Institute of Museum and Library Services determines to be necessary or appropriate to administer and manage the functions of the Institute of Museum and Library Services.

“(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Institute of Museum and Library Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

“(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

“(i) EFFECT ON PERSONNEL.—

“(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

“(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who,

on the day preceding the effective date of this section [Sept. 30, 1996], held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Institute of Museum and Library Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

“(j) SAVINGS PROVISIONS.—

“(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

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

“(B) that were in effect before the effective date of this section [Sept. 30, 1996], or were final before the effective date of this section and are to become effective on or after the effective date of this section;

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 Institute of Museum and Library Services or other authorized official, a court of competent jurisdiction, or by operation of law.

“(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Institute of Museum Services on the effective date of this section, with respect to functions transferred by this section. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section 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 paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

“(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, 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 section had not been enacted.

“(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Institute of Museum Services, or by or against any individual in the official capacity of such individual as an officer of the Institute of Museum Services, shall abate by reason of the enactment of this section.

“(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Institute of Museum Services relating to a function transferred under this section may be continued by the Institute of Museum and Library Services with the same effect as if this section had not been enacted.

“(k) TRANSITION.—The Director of the Institute of Museum and Library Services may utilize—

“(1) the services of such officers, employees, and other personnel of the Institute of Museum Services

with respect to functions transferred to the Institute of Museum and Library Services by this section; and

“(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

“(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

“(1) the Director of the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Director of the Institute of Museum and Library Services; and

“(2) the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Institute of Museum and Library Services.

“(m) ADDITIONAL CONFORMING AMENDMENTS.—

“(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Director of the Institute of Museum and Library Services shall prepare and submit to the appropriate committees of Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

“(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this section [Sept. 30, 1996], the Director of the Institute of Museum and Library Services shall submit to the appropriate committees of Congress the recommended legislation referred to under paragraph (1).”

TRANSITION AND TRANSFER OF FUNDS

Section 101(e) [title VII, §707] of title I of div. A of Pub. L. 104-208 provided that:

“(a) TRANSITION.—The Director of the Office of Management and Budget shall take appropriate measures to ensure an orderly transition from the activities previously administered by the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services under this Act [probably should be “this title” meaning section 101(e) [title VII] of div. A of Pub. L. 104-208, see Short Title note set out under section 9101 of this title]. Such measures may include the transfer of appropriated funds.

“(b) TRANSFER.—From any amounts available to the Secretary of Education for salaries and expenses at the Department of Education, the Secretary of Education shall transfer to the Director the amount of funds necessary to ensure the orderly transition from activities previously administered by the Director of the Office of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services. In no event shall the amount of funds transferred pursuant to the preceding sentence be less than \$200,000.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 9103. Director of Institute

(a) Appointment

(1) In general

The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

(2) Term

The Director shall serve for a term of 4 years.

(3) Qualifications

Beginning with the first individual appointed to the position of Director after Sep-

tember 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

(b) Compensation

The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

(c) Duties and powers

The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this chapter.

(d) Nondelegation

The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

(e) Coordination

The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

(Pub. L. 94-462, title II, §204, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-294.)

PRIOR PROVISIONS

A prior section 204 of Pub. L. 94-462 was classified to section 963 of this title prior to the general amendment of title II of Pub. L. 94-462 by Pub. L. 104-208.

SERVICE OF INDIVIDUALS SERVING ON SEPTEMBER 30, 1996

Section 101(e) [title VII, §705] of div. A of Pub. L. 104-208 provided that: "Notwithstanding section 204 of the Museum and Library Services Act [20 U.S.C. 9103], the individual who was appointed to the position of Director of the Institute of Museum Services under section 205 of the Museum Services Act [former 20 U.S.C. 964] (as such section was in effect on the day before the date of enactment of this Act [Sept. 30, 1996]) and who is serving in such position on the day before the date of enactment of this Act shall serve as the first Director of the Institute of Museum and Library Services under section 204 of the Museum and Library Services Act (as added by section 2 of this Act [probably means section 101(e) [title VII, §702] of title I of div. A of Pub. L. 104-208 which enacted this chapter]), and shall serve at the pleasure of the President."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 9104. Deputy Directors

The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

(Pub. L. 94-462, title II, §205, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-295.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 94-462 was classified to section 964 of this title prior to the general amendment of title II of Pub. L. 94-462 by Pub. L. 104-208.

§ 9105. Personnel

(a) In general

The Director may, in accordance with applicable provisions of title 5, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

(b) Appointment and compensation of technical and professional employees

(1) In general

Subject to paragraph (2), the Director may appoint without regard to the provisions of title 5 governing the appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title (relating to the classification and General Schedule pay rates), such technical and professional employees as the Director determines to be necessary to carry out the duties of the Institute.

(2) Number and compensation

The number of employees appointed and compensated under paragraph (1) shall not exceed $\frac{1}{5}$ of the number of full-time regular or professional employees of the Institute. The rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS-15 of the General Schedule under section 5332 of title 5.

(c) Voluntary services

The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5 for persons employed intermittently in Federal Government service.

(Pub. L. 94-462, title II, §206, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-295; amended Pub. L. 105-128, §2, Dec. 1, 1997, 111 Stat. 2548.)

REFERENCES IN TEXT

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

PRIOR PROVISIONS

A prior section 206 of Pub. L. 94-462 was classified to section 965 of this title prior to the general amendment of title II of Pub. L. 94-462 by Pub. L. 104-208.

AMENDMENTS

1997—Subsecs. (b), (c). Pub. L. 105-128 added subsec. (b) and redesignated former subsec. (b) as (c).

CONSIDERATION GIVEN TO INDIVIDUALS WITH EXPERIENCE

Section 101(e) [title VII, §706] of div. A of Pub. L. 104-208 provided that: "Consistent with title 5, United

States Code, in appointing employees of the Office of Library Services, the Director of the Institute of Museum and Library Services shall give strong consideration to individuals with experience in administering State-based and national library and information services programs.”

§ 9106. Contributions

The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

(Pub. L. 94-462, title II, §207, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-295.)

PRIOR PROVISIONS

A prior section 207 of Pub. L. 94-462 was classified to section 966 of this title prior to the general amendment of title II of Pub. L. 94-462 by Pub. L. 104-208.

SUBCHAPTER II—LIBRARY SERVICES AND TECHNOLOGY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 47 section 254.

§ 9121. Purpose

It is the purpose of this subchapter—

- (1) to consolidate Federal library service programs;
- (2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;
- (3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;
- (4) to provide linkages among and between libraries; and
- (5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

(Pub. L. 94-462, title II, §212, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-295.)

§ 9122. Definitions

As used in this subchapter:

(1) Indian tribe

The term “Indian tribe” means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) Library

The term “library” includes—

- (A) a public library;
- (B) a public elementary school or secondary school library;
- (C) an academic library;
- (D) a research library, which for the purposes of this subchapter means a library that—
 - (i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and
 - (ii) is not an integral part of an institution of higher education; and
- (E) a private library or other special library, but only if the State in which such private or special library is located determines that the library should be considered a library for purposes of this subchapter.

(3) Library consortium

The term “library consortium” means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

(4) State

The term “State”, unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(5) State library administrative agency

The term “State library administrative agency” means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

(6) State plan

The term “State plan” means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subchapter, provides assurances for establishing the State’s policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subchapter, submits copies for approval as required by regulations promulgated by the Director, identifies a State’s library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subchapter.

(Pub. L. 94-462, title II, §213, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-296; amended Pub. L. 105-128, §3, Dec. 1, 1997, 111 Stat. 2548.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (1), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688,

as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1997—Par. (2)(E). Pub. L. 105-128 inserted “or other special library” after “a private library” and “or special” after “such private”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9134 of this title.

§ 9123. Authorization of appropriations

(a) Authorization of appropriations

(1) In general

There are authorized to be appropriated \$150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subchapter.

(2) Transfer

The Secretary of Education shall—

(A) transfer promptly to the Director any funds appropriated under the authority of paragraph (1), to enable the Director to carry out this subchapter; and

(B) not exercise any authority concerning the administration of this chapter other than the transfer described in subparagraph (A).

(b) Forward funding

(1) In general

To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subchapter are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(2) Additional authorization of appropriations

In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subchapter (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(c) Administration

Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subchapter.

(Pub. L. 94-462, title II, §214, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-296.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9131, 9133, 9141 of this title.

PART 1—BASIC PROGRAM REQUIREMENTS

§ 9131. Reservations and allotments

(a) Reservations

(1) In general

From the amount appropriated under the authority of section 9123 of this title for any fiscal year, the Director—

(A) shall reserve 1.75 percent to award grants in accordance with section 9161 of this title; and

(B) shall reserve 3.75 percent to award national leadership grants or contracts in accordance with section 9162 of this title.

(2) Special rule

If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) of this section for the fiscal year succeeding the fiscal year for which the funds were so reserved.

(b) Allotments

(1) In general

From the sums appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

(2) Remainder

From the remainder of any sums appropriated under the authority of section 9123 of this title that are not reserved under subsection (a) of this section and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

(3) Minimum allotment

(A) In general

For the purposes of this subsection, the minimum allotment for each State shall be \$340,000, except that the minimum allotment shall be \$40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) Ratable reductions

If the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

(C) Special rule

(i) In general

Notwithstanding any other provision of this subsection and using funds allotted

for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subchapter in accordance with the provisions of this subchapter that the Director determines are not inconsistent with this subparagraph.

(ii) Award basis

The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(iii) Termination of eligibility

Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subchapter for any fiscal year that begins after September 30, 2001.

(iv) Administrative costs

The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

(4) Data

The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

(Pub. L. 94-462, title II, §221, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-297; amended Pub. L. 105-128, §4, Dec. 1, 1997, 111 Stat. 2548.)

AMENDMENTS

1997—Subsec. (a)(1)(A). Pub. L. 105-128, §4(1), substituted “1.75 percent” for “1½ percent”.

Subsec. (a)(1)(B). Pub. L. 105-128, §4(2), substituted “3.75 percent” for “4 percent”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9161, 9162 of this title.

§ 9132. Administration

(a) In general

Not more than 4 percent of the total amount of funds received under this subchapter for any fiscal year by a State may be used for administrative costs.

(b) Construction

Nothing in this section shall be construed to limit spending for evaluation costs under section 9134(c) of this title from sources other than this subchapter.

(Pub. L. 94-462, title II, §222, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-298.)

§ 9133. Payments; Federal share; and maintenance of effort requirements

(a) Payments

Subject to appropriations provided pursuant to section 9123 of this title, the Director shall pay to each State library administrative agency having a State plan approved under section 9134 of this title the Federal share of the cost of the activities described in the State plan.

(b) Federal share

(1) In general

The Federal share shall be 66 percent.

(2) Non-Federal share

The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

(c) Maintenance of effort

(1) State expenditures

(A) Requirement

(i) In general

The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this part shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in the allotment for any fiscal year shall be equal to the allotment multiplied by a fraction—

(I) the numerator of which is the result obtained by subtracting the level of such State expenditures for the fiscal year for which the determination is made, from the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made; and

(II) the denominator of which is the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

(ii) Calculation

Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

(B) Decrease in Federal support

If the amount made available under this subchapter for a fiscal year is less than the amount made available under this subchapter for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Level of State expenditures

The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library adminis-

trative agency for library programs that are consistent with the purposes of this subchapter. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

(3) Waiver

The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(Pub. L. 94-462, title II, §223, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-299; amended Pub. L. 105-128, §5, Dec. 1, 1997, 111 Stat. 2549.)

AMENDMENTS

1997—Subsec. (c)(1)(A)(i). Pub. L. 105-128 amended second sentence generally. Prior to amendment, second sentence read as follows: “The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.”

§ 9134. State plans

(a) State plan required

(1) In general

In order to be eligible to receive a grant under this subchapter, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

(2) Duration

The State plan shall cover a period of 5 fiscal years.

(3) Revisions

If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

(b) Contents

The State plan shall—

(1) establish goals, and specify priorities, for the State consistent with the purposes of this subchapter;

(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subchapter, and section 9141 of this title, that the State library administrative agency will carry out during such year using such grant;

(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in

achieving the goals and meeting the priorities described in paragraph (1);

(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subchapter; and¹

(6) provide assurances that the State will comply with subsection (f) of this section; and

(7) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subchapter and to determine the extent to which funds provided under this subchapter have been effective in carrying out the purposes of this subchapter.

(c) Evaluation and report

Each State library administrative agency receiving a grant under this subchapter shall independently evaluate, and report to the Director regarding, the activities assisted under this subchapter, prior to the end of the 5-year plan.

(d) Information

Each library receiving assistance under this subchapter shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c) of this section.

(e) Approval

(1) In general

The Director shall approve any State plan under this subchapter that meets the requirements of this subchapter and provides satisfactory assurances that the provisions of such plan will be carried out.

(2) Public availability

Each State library administrative agency receiving a grant under this subchapter shall make the State plan available to the public.

(3) Administration

If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

(B) offer the State library administrative agency the opportunity to revise its State plan;

(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

(D) provide the State library administrative agency the opportunity for a hearing.

(f) Internet safety

(1) In general

No funds made available under this chapter for a library described in section 9122(2)(A) or (B) of this title that does not receive services at discount rates under section 254(h)(6) of title 47, may be used to purchase computers used to access the Internet, or to pay for di-

¹ So in original. The word “and” probably should not appear.

rect costs associated with accessing the Internet, for such library unless—

(A) such library—

(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

- (I) obscene;
- (II) child pornography; or
- (III) harmful to minors; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(B) such library—

(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

- (I) obscene; or
- (II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(2) Access to other materials

Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting against materials other than those referred to in subclauses (I), (II), and (III) of paragraph (1)(A)(i).

(3) Disabling during certain use

An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

(4) Timing and applicability of implementation

(A) In general

A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this chapter following the effective date of this subsection, and for each subsequent program funding year thereafter.

(B) Process

(i) Libraries with Internet safety policies and technology protection measures in place

A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this chapter.

(ii) Libraries without Internet safety policies and technology protection measures in place

A library covered by paragraph (1) that does not have in place an Internet safety

policy meeting the requirements of paragraph (1)—

(I) for the first program year after the effective date of this subsection in which the library applies for funds under this chapter, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after the effective date of this subsection in which the library applies for funds under this chapter, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this chapter for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

(iii) Waivers

Any library subject to a certification under clause (ii)(II) that cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The library shall notify the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after the effective date of this subsection for which the library is applying for funds under this chapter.

(5) Noncompliance

(A) Use of General Education Provisions Act remedies

Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this² chapter is failing to comply substantially with the requirements of this subsection, the Director may—

- (i) withhold further payments to the recipient under this chapter,
- (ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or
- (iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

(B) Recovery of funds prohibited

The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

² So in original. Probably should be preceded by "under".

(C) Recommencement of payments

Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

(6) Separability

If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

(7) Definitions

In this section:

(A) Child pornography

The term “child pornography” has the meaning given such term in section 2256 of title 18.

(B) Harmful to minors

The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(C) Minor

The term “minor” means an individual who has not attained the age of 17.

(D) Obscene

The term “obscene” has the meaning given such term in section 1460 of title 18.

(E) Sexual act; sexual contact

The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2246 of title 18.

(Pub. L. 94-462, title II, §224, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-300; amended Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-340.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(1), (4), (5)(A), was in the original “this Act” and was translated as reading “this title”, meaning title II of Pub. L. 94-462, known as the Museum and Library Services Act, to reflect the probable intent of Congress.

For the effective date of this subsection, referred to in subsec. (f)(4), as 120 days after Dec. 21, 2000, see §1(a)(4) [div. B, title XVII, §1712(b)] of Pub. L. 106-554, set out as an Effective Date of 2000 Amendment note below.

The General Education Provisions Act, referred to in subsec. (f)(5)(A), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified gener-

ally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

AMENDMENTS

2000—Subsec. (b)(6), (7). Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(a)(1)], added par. (6) and redesignated former par. (6) as (7).

Subsec. (f). Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(a)(2)], added subsec. (f).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-343, provided that: “The amendment made by this section [amending this section] shall take effect 120 days after the date of the enactment of this Act [Dec. 21, 2000].”

AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF TECHNOLOGY PROTECTION MEASURES

Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1721(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A-350, provided that:

“(1) IN GENERAL.—Notwithstanding any other provision of law, funds available under section 3134 [former 20 U.S.C. 6844] or part A of title VI of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 7311 et seq.], or under section 231 of the Library Services and Technology Act [20 U.S.C. 9141], may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title [see Short Title of 2000 Amendments note set out under section 6301 of this title] and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

“(2) TECHNOLOGY PROTECTION MEASURE DEFINED.—In this section, the term ‘technology protection measure’ has the meaning given that term in section 1703 [set out as a note under section 902 of Title 47, Telegraphs, Telephones, and Radiotelegraphs].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9132, 9133 of this title.

PART 2—LIBRARY PROGRAMS

§ 9141. Grants to States**(a) In general**

Of the funds provided to a State library administrative agency under section 9123 of this title, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

(1)(A) establishing or enhancing electronic linkages among or between libraries;

(B) electronically linking libraries with educational, social, or information services;

(C) assisting libraries in accessing information through electronic networks;

(D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and

(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of

title 42) applicable to a family of the size involved.

(b) Special rule

Each State library administrative agency receiving funds under this part may apportion the funds available for the purposes described in subsection (a) of this section between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

(Pub. L. 94-462, title II, §231, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-301.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9134, 9161 of this title.

PART 3—ADMINISTRATIVE PROVISIONS

SUBPART A—STATE REQUIREMENTS

§ 9151. State advisory councils

Each State desiring assistance under this subchapter may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

(Pub. L. 94-462, title II, §251, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-301.)

SUBPART B—FEDERAL REQUIREMENTS

§ 9161. Services for Native Americans

From amounts reserved under section 9131(a)(1)(A) of this title for any fiscal year the Director shall award grants to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7517 of this title) to enable such tribes and organizations to carry out the activities described in section 9141 of this title.

(Pub. L. 94-462, title II, §261, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-302; amended Pub. L. 105-128, §6, Dec. 1, 1997, 111 Stat. 2549; Pub. L. 107-110, title VII, §702(d), Jan. 8, 2002, 115 Stat. 1947.)

AMENDMENTS

2002—Pub. L. 107-110 substituted “7517” for “7912”.
1997—Pub. L. 105-128 substituted “Native Americans” for “Indian tribes” in section catchline and in text substituted “to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7912 of this title) to enable such tribes and organizations” for “to organizations primarily serving and representing Indian tribes to enable such organizations”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9131 of this title.

§ 9162. National leadership grants, contracts, or cooperative agreements

(a) In general

From the amounts reserved under section 9131(a)(1)(B) of this title for any fiscal year the Director shall establish and carry out a program of awarding grants or entering into contracts or cooperative agreements to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants, contracts, and cooperative agreements shall be used for activities that may include—

(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

(3) preserving or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

(4) model programs demonstrating cooperative efforts between libraries and museums.

(b) Grants, contracts, or cooperative agreements

(1) In general

The Director may carry out the activities described in subsection (a) of this section by awarding grants to, or entering into contracts or cooperative agreements,¹ with, libraries, agencies, institutions of higher education, or museums, where appropriate.

(2) Competitive basis

Grants, contracts, and cooperative agreements under this section shall be awarded on a competitive basis.

(c) Special rule

The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

(Pub. L. 94-462, title II, §262, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-302; amended Pub. L. 105-128, §§7, 8, Dec. 1, 1997, 111 Stat. 2549, 2550.)

AMENDMENTS

1997—Pub. L. 105-128, §7(1), substituted section catchline for former catchline which read as follows: “National leadership grants or contracts”.

Subsec. (a). Pub. L. 105-128, §7(2), in introductory provisions, substituted “program of awarding grants or entering into contracts or cooperative agreements” for “program awarding national leadership grants or contracts” and “Such grants, contracts, and cooperative agreements” for “Such grants or contracts”.

Subsec. (a)(3). Pub. L. 105-128, §8, substituted “preserving or digitization” for “preservation of digitization”.

¹ So in original. The comma probably should not appear.

Subsec. (b). Pub. L. 105-128, §7(3)(A), substituted heading for former heading which read as follows: "Grants or contracts".

Subsec. (b)(1). Pub. L. 105-128, §7(3)(B), inserted "or cooperative agreements," after "contracts".

Subsec. (b)(2). Pub. L. 105-128, §7(3)(C), substituted "Grants, contracts, and cooperative agreements" for "Grants and contracts".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1504, 9131, 9175 of this title.

§ 9163. State and local initiatives

Nothing in this subchapter shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subchapter, the determination of the best uses of the funds provided under this subchapter, shall be reserved for the States and their local subdivisions.

(Pub. L. 94-462, title II, §263, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-302.)

SUBCHAPTER III—MUSEUM SERVICES

§ 9171. Purpose

It is the purpose of this subchapter—

(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups;

(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

(Pub. L. 94-462, title II, §271, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-302.)

§ 9172. Definitions

As used in this subchapter:

(1) Museum

The term "museum" means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

(2) State

The term "State" means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(Pub. L. 94-462, title II, §272, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-303.)

§ 9173. Museum services activities

(a) Grants

The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, through such activities as—

(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting museums in the conservation of their collections;

(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

(7) model programs demonstrating cooperative efforts between libraries and museums.

(b) Contracts and cooperative agreements

(1) Projects to strengthen museum services

The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

(2) Limitation on amount

The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subchapter for such fiscal year.

(3) Operational expenses

No financial assistance may be provided under this subsection to pay for operational expenses.

(c) Federal share

(1) 50 percent

Except as provided in paragraph (2), the Federal share described in subsections (a) and (b) of this section shall be not more than 50 percent.

(2) Greater than 50 percent

The Director may use not more than 20 percent of the funds made available under this subchapter for a fiscal year to make grants under subsection (a) of this section, or enter into contracts or agreements under subsection (b) of this section, for which the Federal share may be greater than 50 percent.

(d) Review and evaluation

The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subchapter. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this subchapter shall not be subject to any review outside of the Institute.

(Pub. L. 94-462, title II, §273, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-303.)

§ 9174. Award

The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

(Pub. L. 94-462, title II, §274, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-304.)

§ 9175. National Museum Services Board**(a) Establishment**

There is established in the Institute a National Museum Services Board.

(b) Composition and qualifications**(1) Composition**

The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

(2) Qualifications

The appointive members of the Museum Board shall be selected from among citizens of the United States—

(A) who are members of the general public;

(B) who are or have been affiliated with—

(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

(3) Geographic and other representation

Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In

making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

(c) Terms**(1) In general**

Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

(B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(2) Reappointment

No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

(3) Service until successor takes office

Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.

(d) Duties and powers

The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—

(1) financial assistance awarded under this subchapter for museum services; and

(2) projects described in section 9162(a)(4) of this title.

(e) Chairperson

The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.

(f) Meetings**(1) In general**

The Museum Board shall meet—

(A) not less than 3 times each year, including—

(i) not less than 2 times each year separately; and

(ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 9162(a)(4) of this title; and

(B) at the call of the Director.

(2) Vote

All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with re-

spect to the policies described in paragraph (1)(A)(ii) shall be made by a ¾ majority vote of the total number of the members of the Commission and the Museum Board who are present.

(g) Quorum

A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.

(h) Compensation and travel expenses

(1) Compensation

Each member of the Museum Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS-15 of the General Schedule under section 5108 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum Board. All members of the Museum Board who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

(2) Travel expenses

The members of the Museum Board may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5 for persons employed intermittently in Federal Government service.

(i) Coordination

The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

(Pub. L. 94-462, title II, §275, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-304.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9101 of this title.

§ 9176. Authorization of appropriations

(a) Grants

For the purpose of carrying out this subchapter, there are authorized to be appropriated to the Director \$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

(b) Administration

Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subchapter.

(c) Sums remaining available

Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation until expended.

(Pub. L. 94-462, title II, §276, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-306.)

CHAPTER 73—ADULT EDUCATION AND LITERACY

SUBCHAPTER I—ADULT EDUCATION AND FAMILY LITERACY

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- 9202. Definitions.
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