

INTERIOR FRANCHISE FUND PERMANENT AUTHORITY TO OPERATE

The authority of the Secretary of the Interior to perform centralized administrative services (including interagency acquisitions), and the establishment of the Interior Franchise Fund to finance the operation of those centralized services, are now permanent. The original authority to establish the Interior Franchise Fund was subject to automatic termination “pursuant to section 403(f) of Public Law 103–356.”

However, the termination provision of section 403(f) now applies only to the Department of Homeland Security Working Capital Fund. At the present time, therefore, the authority of the Secretary of the Interior to operate the franchise fund pilot established by section 113 of the Department of the Interior Appropriations Act, 1997 is no longer subject to automatic termination—it is permanent. The history of the statutory authorities affecting the Interior Franchise Fund is set forth below.

Government Management Reform Act of 1994 (GMRA) (Pub. L. No. 103–356, tit. IV, § 403, Oct. 13, 1994, 103 Stat. 3413) authorized the Director of OMB to establish six franchise fund pilot programs. In 1996, the Director approved applications from the Department of Commerce, the Environmental Protection Agency, the Department of Health and Human Services, the Department of the Interior, the Treasury, and the Department of Veteran Affairs.

Sec. 403:

(a) ESTABLISHMENT—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) USES—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

(c) FUNDING—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to

carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

(d) **REPORT ON PILOT PROGRAMS**—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

(1) the structure of the fund;

(2) the composition of the funding mechanism;

(3) the capacity of the fund to promote competition; and

(4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

(e) **PROCUREMENT**—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

(f) **TERMINATION**—The provisions of this section shall expire on October 1, 1999.

Department of the Interior Appropriations Act, 1997 (Pub. L. No. 104–208, div. A, tit. I, § 101(d) [tit. I, § 113], Sept. 30, 1996, 110 Stat. 3009–181, 3009–200) established a franchise fund pilot in the Treasury for use by the Department of the Interior.

Sec. 113:

There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356, to be available as provided in such section

for costs of capitalizing and operating administrative services as the Secretary determines may be performed more advantageously as central services: Provided, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: Provided further, That such fund shall be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automatic data processing (ADP) software and systems (either acquired or donated) and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: Provided further, That such fund shall provide services on a competitive basis: Provided further, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of Department financial management, ADP, and other support systems: Provided further, That no later than thirty days after the end of each fiscal year amounts in excess of this reserve limitation shall be transferred to the Treasury: Provided further, That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997 (Pub. L. No. 104–208, div. A, tit. I, § 101(f) [tit. VI, § 627], Sept. 30, 1996, 110 Stat. 3009–314, 3009–360) extended the franchise fund pilot programs through September 30, 2001.

Sec. 627:

Subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note) is amended by striking “October 1, 1999” and inserting “October 1, 2001”.

Treasury and General Government Appropriations Act, 2002 (Pub. L. No. 107–67, tit. VI, § 634, Nov. 12, 2001, 115 Stat. 553) extended the franchise fund pilot programs through September 30, 2002.

Sec. 634:

Subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note) is amended by striking “October 1, 2001” and inserting “October 1, 2002”.

Department of the Interior Appropriations Act, 2003 (Pub. L. No. 108–7, div. F, tit. I, § 149, Feb. 20, 2003, 117 Stat. 245) amended the language of the Department of the Interior Appropriations Act, 1997 to allow the Interior Franchise Fund Pilot Program the discretion to accept payment either in advance or after the fact.

Sec. 149:

Section 113 of Public Law 104–208 (31 U.S.C. 501 note.) is amended by deleting “That such fund shall be paid in advance” and inserting “That such fund may be paid in advance”.

National Defense Authorization Act for Fiscal Year 2004 (Pub. L. No. 108–136, § 1426 Nov. 24, 2003, 117 Stat. 1670) extended the franchise fund programs through December 31, 2004. The House and Senate Conference Report (November 7, 2003) contained language directing GAO to review franchise fund support for the Department of Defense and reconciled differences between the Senate and House versions of the Act by agreeing on an extension of the franchise fund by compromising on an automatic termination date of December 31, 2004. H.R. 1588 had recommended an extension through 2006.

Sec. 1426:

Section 403(f) of the Federal Financial Management Act of 1994 (Public Law 103–356; 31 U.S.C. 501 note) is amended by striking “October 1, 2003” and inserting “December 31, 2004”.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (Pub. L. No. 108–447, div. B, tit. VI, § 632, Dec. 8, 2004, 118 Stat. 2913) extended the franchise fund pilot programs through September 30, 2005.

Sec. 632:

Subsection (f) of section 403 Public Law 103–356 (31 U.S.C. 501 note), as amended, is further amended by striking “October 1, 2004” and inserting “October 1, 2005”.

Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Pub. L. No. 109–115, div. A, tit. VIII, § 831, Nov. 30, 2005, 119 Stat. 2472) extended the franchise fund pilot programs through September 30, 2006.

Sec. 831:

Subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note), as amended, is further amended by striking “October 1, 2005” and inserting “October 1, 2006”: *Provided*, That this provision shall not apply to the Department of Homeland Security.

Continuing Appropriations Resolution, 2007 (Pub. L. No. 109–289, div. B, § 132, Sep. 29, 2006, 120 Stat. 1311) extended the franchise fund pilot programs through November 16, 2006.

Sec. 132:

Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) [November 17, 2006] of this division for “October 1, 2006”.

Continuing Appropriations Resolution, 2007, First Amendment (Pub. L. No. 109–369, Nov. 17, 2006, 120 Stat. 2642) extended the franchise fund pilot programs through December 7, 2006.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is amended by striking the date specified in section 106(3) and inserting “December 8, 2006”.

Continuing Appropriations Resolution, 2007, Second Amendment (Pub. L. No. 109–383, Dec. 9, 2006, 120 Stat. 2678) extended the franchise fund pilot programs through February 14, 2007.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) is further amended by striking the date specified in section 106(3) and inserting “February 15, 2007”.

Revised Continuing Appropriations Resolution, 2007 (Pub. L. No. 110–5, div. B, tit. II, ch. 10, § 21068, Feb. 15, 2007, 121 Stat. 8) extended the franchise fund pilot programs through September 29, 2007.

Sec. 21068:

Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106 of this division [September 30, 2007] for ‘October 1, 2006’.

First Continuing Appropriations Resolution, 2008 (Pub. L. No. 110–92, § 129, Sept. 29, 2007, 121 Stat. 989) extended the franchise fund pilot programs through November 15, 2007.

Sec. 129:

Section 403(f) of the Government Management Reform Act of 1994 (Public Law 103-356; 31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution [November 16, 2007] for ‘October 1, 2006’.

Second Continuing Appropriations Resolution, 2008 (Pub. L. No. 110–116, div. B, § 101, Nov. 13, 2007, 121 Stat. 1295) extended the franchise fund pilot programs through December 13, 2007.

Sec. 101:

Public Law 110–92 is amended by striking the date specified in section 106(3) and inserting “December 14, 2007”.

Third Continuing Appropriations Resolution, 2008 (Pub. L. No. 110–137, Dec. 13, 2007, ___ Stat. ____) extended the franchise fund pilot programs through December 20, 2007.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 110-92 is further amended by striking the date specified in section 106(3) and inserting “December 21, 2007”.

Fourth Continuing Appropriations Resolution, 2008 (Pub. L. No. 110–149, Dec. 18, 2007, ___ Stat. ____) extended the franchise fund pilot programs through December 31, 2007.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 110-92 is further amended by striking the date specified in section 106(3) and inserting “December 31, 2007”.

Financial Services and General Government Appropriations Act, 2008 (Pub. L. No. 110–___, div. D, tit. VII, § 730, Dec. 26, 2007, ___ Stat. ____) amends the termination provision of section 403(f) and limits its application to the Department of Homeland Security Working Capital Fund.

Sec. 730

Section 403(f) of the Government Management Reform Act of 1994 (31 U.S.C. 501 note; Public Law 103–356) is amended to read as follows:

‘(f) TERMINATION OF CERTAIN AUTHORITY–The authority of the Secretary of Homeland Security to carry out a pilot program under this section shall terminate on October 1, 2008.’.