

22 U.S. Code § 2131 - Travel Promotion Act of 2009
As amended by the Travel Promotion, Enhancement, and Modernization Act
of 2014 and the Brand USA Extension Act (2019)

SUBCHAPTER IV—CORPORATION FOR TRAVEL PROMOTION

§2131. Travel Promotion Act of 2009

(a) Short title

This section may be cited as the “Travel Promotion Act of 2009”.

(b) The Corporation for Travel Promotion

(1) Establishment

The Corporation for Travel Promotion is established as a nonprofit corporation. The Corporation shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–1001 et seq.), to the extent that such provisions are consistent with this subsection, and shall have the powers conferred upon a nonprofit corporation by that Act to carry out its purposes and activities.

(2) Board of directors

(A) In general

The Corporation shall have a board of directors of 11 members with knowledge of international travel promotion ~~and or~~ marketing, broadly representing various regions of the United States, who are United States citizens. At least 5 members of the board shall experience working in United States multinational entities with marketing budgets. At least 2 members of the board shall be audit committee financial experts (as defined by the Securities and Exchange Commission in accordance with section 407 of Public Law 107-204 (15 U.S.C. 7265). All members of the board shall be a current or former chief executive officer, chief financial officer, or chief marketing officer, or have held an equivalent management position. Members of the board shall be appointed by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State), as follows:

(i) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(ii) 1 shall have appropriate expertise and experience in the restaurant or foodservice sector;

(iii) 1 shall have appropriate expertise and experience in the small business or retail sector or in associations representing that sector;

(iv) 1 shall have appropriate expertise and experience in the travel distribution services sector;

(v) 1 shall have appropriate expertise and experience in the attractions or recreations sector, [such as outdoor recreation](#);

(vi) 1 shall have appropriate expertise and experience as officials of a city convention and visitors' bureau;

(vii) 2 shall have appropriate expertise and experience as officials of a State tourism office;

(viii) 1 shall have appropriate expertise and experience in the [commercial or private](#) passenger air sector;

(ix) 1 shall have appropriate expertise and experience in immigration law and policy, including visa requirements and United States entry procedures; and

(x) 1 shall have appropriate expertise in the ~~intercity passenger railroad business~~ [land or sea transportation sector](#).

(B) Incorporation

The members of the initial board of directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–301.01 et seq.).

(C) Term of office

The term of office of each member of the board appointed by the Secretary shall be 3 years, except that, of the members first appointed—

(i) 3 shall be appointed for terms of 1 year;

(ii) 4 shall be appointed for terms of 2 years; and

(iii) 4 shall be appointed for terms of 3 years.

(D) Removal for cause

The Secretary of Commerce may remove any member of the board for good cause.

(E) Vacancies

Any vacancy in the board shall not affect its power, but shall be filled in the manner required by this subsection. Any member whose term has expired may serve until the member's successor has taken office, or until the end of the calendar year in which the member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term. No member of the board shall be eligible to serve more than 2 consecutive full 3-year terms.

(F) Election of Chairman and Vice Chairman

Members of the board shall annually elect one of the members to be Chairman and elect 1 or 2 of the members as Vice Chairman or Vice Chairmen.

(G) Status as Federal employees

Notwithstanding any provision of law to the contrary, no member of the board may be considered to be a Federal employee of the United States by virtue of his or her service as a member of the board.

(H) Compensation; expenses

No member shall receive any compensation from the Federal government for serving on the Board. Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

(3) Officers and employees

(A) In general

The Corporation shall have an executive director and such other officers as may be named and appointed by the board for terms and at rates of compensation fixed by the board. No individual other than a citizen of the United States may be an officer of the Corporation. The Corporation may hire and fix the compensation of such employees as may be necessary to carry out its purposes. No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers and employees shall serve at the pleasure of the board.

(B) Nonpolitical nature of appointment

No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(4) Nonprofit and nonpolitical nature of Corporation

(A) Stock

The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(B) Profit

No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(C) Politics

The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(D) Sense of Congress regarding lobbying activities

It is the sense of Congress that the Corporation should not engage in lobbying activities (as defined in section 1602(7) of title 2.¹

(5) Duties and powers

(A) In general

The Corporation shall develop and execute a plan—

(i) to provide useful information to foreign tourists, business people, students, scholars, scientists, and others interested in traveling to the United States, including the distribution of material provided by the Federal government concerning entry requirements, required documentation, fees, processes, and information concerning declared public health emergencies, to prospective travelers, travel agents, tour operators, meeting planners, foreign governments, travel media and other international stakeholders;

(ii) to identify, counter, and correct misperceptions regarding United States entry policies around the world;

(iii) to maximize the economic and diplomatic benefits of travel to the United States by promoting the United States of America to world travelers through the use of, but not limited to, all forms of advertising, outreach to trade shows, [speaking conventions, sales missions,](#) and other appropriate promotional activities;

(iv) to ensure that international travel benefits all States and [territories of the United States and](#) the District of Columbia and to identify opportunities and strategies to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; ~~and~~

(v) to give priority to the Corporation's efforts with respect to countries and populations most likely to travel to the United States; ~~and~~

[\(vi\) to promote tourism to the United States through digital media, online platforms, and other appropriate medium.](#)

(B) Specific powers

In order to carry out the purposes of this subsection, the Corporation may—

(i) obtain grants from and make contracts with individuals and private companies, State, and Federal agencies, organizations, and institutions;

(ii) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out its purposes; and

(iii) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(C) Public outreach and information

The Corporation shall develop and maintain a publicly accessible website.

(6) Open meetings

Meetings of the board of directors of the Corporation, including any committee of the board, shall be open to the public. The board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(7) Major campaigns

The board may not authorize the Corporation to obligate or expend more than \$25,000,000 on any advertising campaign, promotion, or related effort unless—

(A) the obligation or expenditure is approved by an affirmative vote of at least 2/3 of the members of the board present at the meeting;

(B) at least 6 members of the board are present at the meeting at which it is approved; and

(C) each member of the board has been given at least ~~3 days~~ 5 days advance notice of the meeting at which the vote is to be taken and the matters to be voted upon at that meeting.

(8) Fiscal accountability

(A) Fiscal year

The Corporation shall establish as its fiscal year the 12-month period beginning on October 1.

(B) Budget

The Corporation shall adopt a budget for each fiscal year.

(C) Annual audits

The Corporation shall engage an independent accounting firm to conduct an annual financial audit of the Corporation's operations and shall publish the results of the audit. The Comptroller General of the United States may review any audit of a financial statement conducted under this paragraph by an independent accounting firm and may audit the Corporation's operations at the discretion of the Comptroller General. The Comptroller General and the Congress shall have full and complete access to the books and records of the Corporation.

(D) Program audits

Not later than 2 years after March 4, 2010, the Comptroller General shall conduct a review of the programmatic activities of the Corporation for Travel Promotion. This report shall be provided to appropriate congressional committees.

(c) Accountability measures

(1) Objectives

The Board shall establish annual objectives for the Corporation for each fiscal year subject to approval by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State). The Corporation shall establish a marketing plan for each fiscal year not less than 60 days before the beginning of that year and provide a copy of the plan, and any revisions thereof, to the Secretary.

(2) Budget

The board shall transmit a copy of the Corporation's budget for the forthcoming fiscal year to the Secretary not less than 60 days before the beginning of each fiscal year, together with an explanation of any expenditure provided for by the budget in excess of ~~\$5,000,000~~ 500,000-450,000 for the fiscal year. The Corporation shall make a copy of the budget and the explanation available to the public and shall provide public access to the budget and explanation on the Corporation's website.

(3) Annual report to Congress

The Corporation shall submit an annual report for the preceding fiscal year to the Secretary of Commerce for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section;

(B) a comprehensive and detailed inventory of amounts obligated or expended by the Corporation during the preceding fiscal year;

(C) a detailed description of each in-kind contribution, its fair market value, the individual or organization responsible for contributing, its specific use, and a justification for its use within the context of the Corporation's mission;

(D) an objective and quantifiable measurement of its progress, on an objective-by-objective basis, in meeting the objectives established by the board;

(E) an explanation of the reason for any failure to achieve an objective established by the board and any revisions or alterations to the Corporation's objectives under paragraph (1);

(F) a comprehensive and detailed report of the Corporation's operations and activities to promote tourism in rural and urban areas; ~~and~~

(G) a description of, and rationales for, the Corporation's efforts to focus on specific countries and populations;

(H) (i) a description of, and rationales for, the Corporation's combination of media channels employed in meeting the promotional objectives of its marketing campaign;

(ii) the ratio in which such channels are used; and

(iii) a justification for the use and ratio of such channels; ~~and~~

(I) a list of countries the Corporation identifies as emerging markets for tourism to the United States;

(J) a description of the efforts of the Corporation has made to promote tourism to rural areas of the United States; and

(~~G~~K) such recommendations as the Corporation deems appropriate.

(4) Limitation on use of funds

Amounts deposited in the Fund may not be used for any purpose inconsistent with carrying out the objectives, budget, and report described in this subsection.

(d) Matching public and private funding

(1) Establishment of Travel Promotion Fund

There is hereby established in the Treasury a fund which shall be known as the Travel Promotion Fund.

(2) Funding

(A) Start-up expenses

The Secretary of the Treasury shall make available to the Corporation such sums as may be necessary, but not to exceed \$10,000,000, from amounts deposited in the general fund of the Treasury from fees under section 1187(h)(3)(B)(i)(I) of title 8 to cover the Corporation's initial expenses and activities under this section. Transfers shall be made at least monthly, immediately following the collection of fees under section 1187(h)(3)(B)(i)(I) of title 8, on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(B) Subsequent years

For each of fiscal years 2012 through ~~2015~~2020~~2027~~, from amounts deposited in the general fund of the Treasury during the preceding fiscal year from fees under section 1187(h)(3)(B)(i)(I) of title 8, the Secretary of the Treasury shall transfer not more than \$100,000,000 to the Fund, which shall be made available to the Corporation, subject to paragraph (3) of this subsection, to carry out its functions under this section. Transfers shall be made at least quarterly on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(3) Matching requirement

(A) In general

No amounts may be made available to the Corporation under this subsection after fiscal year 2011, except to the extent that—

(i) for fiscal year 2012, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 50 percent or more of the amount transferred to the Fund under paragraph (2); and

(ii) for any fiscal year after fiscal year 2012, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 100 percent of the amount transferred to the Fund under paragraph (2) for the fiscal year.

(B) Goods and services

For the purpose of determining the amount received from non-Federal sources by the Corporation, other than money—

(i) the fair market value of goods and services (including advertising) contributed to the Corporation for use under this section may be included in the determination; but

(ii) the fair market value of such goods and services may not account for more than ~~80-70 percent~~ 50 percent of the matching requirement under subparagraph (A) for the Corporation in any fiscal year.

(C) Right of refusal

The Corporation may decline to accept any contribution in-kind that it determines to be inappropriate, not useful, or commercially worthless.

(D) Limitation

The Corporation may not obligate or expend funds in excess of the total amount received by the Corporation for a fiscal year from Federal and non-Federal sources.

(E) Maintenance of an in-kind contribution policy

The Corporation shall maintain an in-kind contributions policy.

(F) Formal procedures for in-kind contribution policy

Not later than 90 days after the date of enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Secretary of Commerce, in

coordination with the Corporation, shall establish formal, publicly available procedures specifying time frames and conditions for—

(i) making and agreeing to revisions of the Corporation’s in-kind contributions policy; and

(ii) addressing and resolving disagreements between the Corporation and its partners, including the Secretary of Commerce, regarding the in-kind contributions policy.

(G) Biannual review of procedures to determine fair market value of goods and services.

The Corporation and the Secretary of Commerce (or their designees) shall meet on a biannual basis to review the procedures to determine the fair market value of goods and services received from non-Federal sources by the Corporation under subparagraph (B).

(4) Carryforward

(A) Federal funds

Amounts transferred to the Fund under paragraph (2)(B) shall remain available until expended.

(B) Matching funds

Any amount received by the Corporation from non-Federal sources in each of the fiscal years 2011, 2012, 2013, 2014, or 2015 through 2020-2027 that cannot be used to meet the matching requirement under paragraph (3)(A) for the fiscal year in which amount was collected may be carried forward and treated as having been received in the succeeding fiscal year for purposes of meeting the matching requirement of paragraph (3)(A) in such succeeding fiscal year.

~~**(e) Omitted**~~

~~**(fe) Assessment authority**~~

~~**(1) In general**~~

~~Except as otherwise provided in this subsection, the Corporation may impose an annual assessment on United States members of the international travel and tourism industry (other than those described in subsection (b)(2)(A)(iii) or (H)) represented on the Board in proportion to their share of the aggregate international travel and tourism revenue of the industry. The Corporation shall be responsible for verifying, implementing, and collecting the assessment authorized by this subsection.~~

~~(2) Initial assessment limited~~

~~The Corporation may establish the initial assessment after March 4, 2010, at no greater, in the aggregate, than \$20,000,000.~~

~~(3) Referenda~~

~~(A) In general~~

~~The Corporation may not impose an annual assessment unless —~~

~~(i) the Corporation submits the proposed annual assessment to members of the industry in a referendum; and~~

~~(ii) the assessment is approved by a majority of those voting in the referendum.~~

~~(B) Procedural requirements~~

~~In conducting a referendum under this paragraph, the Corporation shall —~~

~~(i) provide written or electronic notice not less than 60 days before the date of the referendum;~~

~~(ii) describe the proposed assessment or increase and explain the reasons for the referendum in the notice; and~~

~~(iii) determine the results of the referendum on the basis of weighted voting apportioned according to each business entity's relative share of the aggregate annual United States international travel and tourism revenue for the industry per business entity, treating all related entities as a single entity.~~

~~(4) Collection~~

~~(A) In general~~

~~The Corporation shall establish a means of collecting the assessment that it finds to be efficient and effective. The Corporation may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Corporation any amount assessed by the Corporation under this section.~~

~~(B) Enforcement~~

~~The Corporation may bring suit in Federal court to compel compliance with an assessment levied by the Corporation under this section.~~

(5) Investment of funds

~~Pending disbursement pursuant to a program, plan, or project, the Corporation may invest funds collected through assessments, and any other funds received by the Corporation, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.~~

(f) Accountability

(1) Performance plans and measures

Not later than 90 days after the date of the enactment of the Travel Promotion, Enhancement, and Modernization Act of 2014, the Corporation shall—

(A) establish performance metrics including, time frames, evaluation methodologies, and data sources for measuring—

(i) the effectiveness of marketing efforts by the Corporation, including its progress in achieving the long-term goals of increased traveler visits to and spending in the United States;

(ii) whether increases in visitation and spending have occurred in response to external influences, such as economic conditions or exchanges rates, rather than in response to the efforts of the Corporation; and

(iii) any cost or benefit to the economy of the United States; and

(B) conduct periodic program evaluations in response to the data resulting from measurements under subparagraph (A).

(2) GAO Accountability

Not later than 60 days after the date on which the Corporation receives a report from the Government Accountability Office with recommendations for the Corporation, the Corporation shall submit a report to Congress that describes the actions taken by the Corporation in response to the recommendations in the report.

(g) Procurement requirements

The Corporation shall—

(1) establish a competitive procurement process; and

(2) certify in its annual report to Congress under subsection (c)(3) that any contracts entered into were in compliance with the established competitive procurement process.

(h) Omitted

(g) Omitted

(h) Omitted