

**National Defense Authorization Act for Fiscal Years 1988
and 1989 (Sections 222 - 224, 227, 637, and 1121)**

[Public Law 100–180; approved Dec. 4, 1987]

[As Amended Through P.L. 111–383, Enacted January 7, 2011]

【Currency: This publication is a compilation of the text of Public Law 100-180. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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**TITLE II—RESEARCH, DEVELOPMENT, TEST, AND
EVALUATION**

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PART C—STRATEGIC DEFENSE INITIATIVE

**Subpart 1—SDI Funding and Program Limitations and
Requirements**

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【Section 222 was repealed by section 222 of division A of Public Law 111–383.】

**SEC. 223. [10 U.S.C. 2431 note] LIMITATION ON TRANSFER OF CERTAIN
MILITARY TECHNOLOGY TO INDEPENDENT STATES OR
THE FORMER SOVIET UNION.**

Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to Russia or any other independent State of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines and certifies to the Congress at least 15 days prior to any such transfer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.

**SEC. 224. [10 U.S.C. 2431 note] SDI ARCHITECTURE TO REQUIRE
HUMAN DECISION MAKING**

No agency of the Federal Government may plan for, fund, or otherwise support the development of command and control systems for strategic defense in the boost or post-boost phase against

ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative human decision at an appropriate level of authority.

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SEC. 227. [10 U.S.C. 2431 note] ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for issues of system integration related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization, after assessing alternative types of organizations for the provision of such technical support to the Strategic Defense Initiative program (including Government organizations, profit and non-profit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories), determined that a new federally funded research and development center (hereinafter in this section referred to as an “FFRDC”) would be the type of organization most appropriate for the provision of such technical support to the Strategic Defense Initiative program.

(3) In providing such technical support to the SDI program, the new FFRDC should provide critical evaluation and rigorous and objective analysis of technologies, systems, and architectures that are candidates for use in the SDI program.

(4) Competitive selection of a contractor to establish and operate such an FFRDC to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of system integration issues within the Strategic Defense Initiative program.

(b) AUTHORITY TO CONTRACT FOR FFRDC.—The Secretary of Defense, using funds appropriated to the Department of Defense for the Strategic Defense Initiative program, may enter into a contract to provide for the establishment and operation of a federally funded research and development center to provide independent and objective technical support to the Strategic Defense Initiative program. Such a contract may not be awarded before October 1, 1989.

(c) CONTRACT AWARD REQUIREMENTS.—(1) A contract under subsection (b) shall be awarded using competitive procedures which emphasize cost considerations.

(2) The Secretary of Defense shall solicit proposals for such contract from existing federally funded research and development centers, from universities, from commercial entities, and from appropriate new organizations and shall make maximum efforts to obtain more than one proposal for such contract.

(3) The Secretary shall submit the three best contract proposals (as determined by the Secretary), together with a copy of the proposed sponsoring agreement for the new FFRDC, for review by three persons designated by the Defense Science Board from a list

of six or more persons submitted by the National Academy of Sciences. The persons performing the review—

(A) shall evaluate the extent to which each proposal and the proposed sponsoring agreement would foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) shall report their evaluation of each such proposal and of the proposed sponsoring agreement to the Secretary.

(4) Before awarding a contract under subsection (b), and not sooner than March 30, 1989, the Secretary shall submit to Congress—

(A) a copy of the proposed final contract; and

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC.

(5)(A) The Secretary shall then withhold the award of such contract and the approval of such sponsoring agreement for a period of at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives the copies referred to in paragraph (4).

(B) For purposes of subparagraph (a), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress. In computing the 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded.

(d) REQUIREMENTS APPLICABLE TO FFRDC.—The Secretary of Defense shall—

(1) require that the contract referred to in subsection (b) include a provision stating that no officer or employee of the Department of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(2) require that at least 5 percent of the total amount of funds available for the new FFRDC shall be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(3) impose a limitation on the compensation payable to each senior executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to senior executives of comparable federally funded research and development centers for similar services;

(4) require that the new FFRDC publicly disclose the salary of its chief executive officer;

(5) prohibit current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees of the FFRDC if such members constitute 10 or more percent of the Board of Trustees or from serving as officers of the new FFRDC;

(6) require that the contract referred to in subsection (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC, except

that a Board member may serve as the President of the new FFRDC if the Board is comprised of 10 or more members;

(7) require that the contract referred to in subsection (b) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, served in the Strategic Defense Initiative Organization within two years before the date on which such person is to be employed by the new FFRDC; and

(8) require that any contract referred to in subsection (b) require that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program.

(e) FUNDING.—The Secretary of Defense shall provide that all funds for the new FFRDC within the Department of Defense budget for any fiscal year shall be separately identified and set forth in the budget presentation materials submitted to Congress for that fiscal year.

(f) SUNSET PROVISION.—No Federal funds may be provided to the new FFRDC after the end of the five-year period beginning on the date of the award of the first contract awarded to the FFRDC under this section.

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TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

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SEC. 637. [10 U.S.C. 113 note] REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL

Not later than 60 days after the date of the enactment of this Act [Dec. 4, 1987], the Secretary of Defense shall prescribe regulations to establish the policy that—

(1) the decision by a spouse of a member of the Armed Forces to be employed or to voluntarily participate in activities relating to the Armed Forces should not be influenced by the preferences or requirements of the Armed Forces; and

(2) neither such decision nor the marital status of a member of the Armed Forces should have an effect on the assignment or promotion opportunities of the member.

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TITLE XI—DEPARTMENT OF DEFENSE MANAGEMENT

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SEC. 1121. [10 U.S.C. 113 nt] COUNTERINTELLIGENCE POLYGRAPH PROGRAM

(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be based on Department of Defense Directive 5210.48, dated December 24, 1984.

(b) **PERSONS COVERED.**—Except as provided in subsection (d), the following persons whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2(a) of Executive Order 12356 (or a successor Executive order) are subject to this section:

(1) Military and civilian personnel of the Department of Defense.

(2) Personnel of defense contractors.

(c) **LIMITATION ON NUMBER OF EXAMINATIONS.**—The number of counterintelligence polygraph examinations that may be administered under this section may not exceed 5,000 during any fiscal year for which a specific number is not otherwise provided by law.

(d) **EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.**—This section does not apply—

(1) to a person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency;

(2) to (A) a person employed by or assigned or detailed to the National Security Agency, (B) an expert or consultant under contract to the National Security Agency, (C) an employee of a contractor of the National Security Agency, or (D) a person applying for a position in the National Security Agency;

(3) to a person assigned to a space where sensitive cryptographic information is produced, processed, or stored; or

(4) to a person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

(e) **POLYGRAPH RESEARCH PROGRAM.**—The Secretary of Defense shall carry out a continuing research program to support the polygraph activities of the Department of Defense. The program shall include—

(1) an on-going evaluation of the validity of polygraph techniques used by the Department;

(2) research on polygraph countermeasures and anti-countermeasures; and

(3) developmental research on polygraph techniques, instrumentation, and analytic methods.

(f) **ANNUAL REPORT ON POLYGRAPH PROGRAMS.**—(1) Not later than January 15 of each year, the Secretary of Defense shall submit to Congress a report on polygraph examinations administered by or for the Department of Defense during the previous fiscal year (whether administered under this section or any other authority).

(2) Each such report shall include the following with regard to the program authorized by subsection (a):

(A) A statement of the number of polygraph examinations administered by or for the Department of Defense during such fiscal year.

(B) A description of the purposes and results of such examinations.

(C) A description of the criteria used for selecting programs and persons for such examination.

(D) A statement of the number of persons who refused to submit to such an examination and a description of the actions taken as a result of the refusals.

(E) A statement of the number of persons for which such an examination indicated deception and the action taken as a result of the examinations.

(F) A detailed accounting of those cases in which more than two such examinations were needed to attempt to resolve discrepancies and those cases in which the examination of a person extended over more than one day.

(3) Each such report shall also include the following:

(A) A description of any plans to expand the use of polygraph examinations in the Department of Defense.

(B) A discussion of any plans of the Secretary for recruiting and training additional polygraph operators together with statistical data on the employment turnover of Department of Defense polygraph operators.

(C) A description of the results during the preceding fiscal year of the research program under subsection (e).

(D) A statement of the number of polygraph examinations administered to persons described in subsection (d) (which number may be set forth in a classified annex to the report).

(g) REPEAL.—Section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 726), is repealed.

(h) EFFECTIVE DATE.—This section shall take effect as of October 1, 1987.

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