

Subsec. (d)(1). Pub. L. 109–163 substituted “Such policies” for “Such polices”.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (f) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

§ 127c. Purchase of weapons overseas: force protection

(a) AUTHORITY.—When elements of the armed forces are engaged in ongoing military operations in a country, the Secretary of Defense may, for the purpose of protecting United States forces in that country, purchase weapons from any foreign person, foreign government, international organization, or other entity located in that country.

(b) LIMITATION.—The total amount expended during any fiscal year for purchases under this section may not exceed \$15,000,000.

(c) SEMIANNUAL CONGRESSIONAL REPORT.—In any case in which the authority provided in subsection (a) is used during the period of the first six months of a fiscal year, or during the period of the second six months of a fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives a report on the use of that authority during that six-month period. Each such report shall be submitted not later than 30 days after the end of the six-month period during which the authority is used. Each such report shall include the following:

(1) The number and type of weapons purchased under subsection (a) during that six-month period covered by the report, together with the amount spent for those weapons and the Secretary’s estimate of the fair market value of those weapons.

(2) A description of the dispositions (if any) during that six-month period of weapons purchased under subsection (a).

(Added Pub. L. 109–163, div. A, title XII, § 1231(a), Jan. 6, 2006, 119 Stat. 3467.)

Editorial Notes

CODIFICATION

Another section 127c was renumbered section 127d of this title prior to being renumbered section 331 of this title.

§ 127d. Support of special operations for irregular warfare

(a) AUTHORITY.—The Secretary of Defense may, with the concurrence of the relevant Chief of Mission, expend up to \$20,000,000 during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing and authorized irregular warfare operations by United States Special Operations Forces.

(b) FUNDS.—Funds for support under this section in a fiscal year shall be derived from amounts authorized to be appropriated for that fiscal year for the Department of Defense for operation and maintenance.

(c) PROCEDURES.—

(1) IN GENERAL.—The authority in this section shall be exercised in accordance with such procedures as the Secretary shall establish for purposes of this section.

(2) ELEMENTS.—The procedures required under paragraph (1) shall establish, at a minimum, the following:

(A) Policy guidance for the execution of, and constraints within, activities under the authority in this section.

(B) The processes through which activities under the authority in this section are to be developed, validated, and coordinated, as appropriate, with relevant entities of the United States Government.

(C) The processes through which legal reviews and determinations are made to comply with the authority in this section and ensure that the exercise of such authority is consistent with the national security of the United States.

(D) The processes to ensure, to the extent practicable, that before a decision to provide support is made, the recipients of support do not pose a counterintelligence or force protection threat and have not engaged in gross violations of human rights.

(E) The processes by which the Department shall keep the congressional defense committees fully and currently informed of—

(i) the requirements for the use of the authority in this section; and

(ii) activities conducted under such authority.

(3) NOTICE TO CONGRESS ON PROCEDURES AND MATERIAL MODIFICATIONS.—The Secretary shall notify the congressional defense committees of the procedures established pursuant to this section before any exercise of the authority in this section, and shall notify such committee of any material modification of the procedures.

(d) CONSTRUCTION OF AUTHORITY.—Nothing in this section shall be construed to constitute a specific statutory authorization for any of the following:

(1) The conduct of a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e)).

(2) The introduction of United States Armed Forces (including as such term is defined in section 8(c) of the War Powers Resolution (50 U.S.C. 1547(c))) into hostilities or into situations wherein hostilities are clearly indicated by the circumstances.

(3) The provision of support to regular forces, irregular forces, groups, or individuals for the conduct of operations that United States Special Operations Forces are not otherwise legally authorized to conduct themselves.

(4) The conduct or support of activities, directly or indirectly, that are inconsistent with the laws of armed conflict.

(e) LIMITATION ON DELEGATION.—The authority of the Secretary to make funds available under this section for support of a military operation may not be delegated.

(f) PROGRAMMATIC AND POLICY OVERSIGHT.—The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict shall have primary programmatic and policy oversight within the Office of the Secretary of Defense of support to irregular warfare activities authorized by this section.

(g) NOTIFICATION.—

(1) IN GENERAL.—Not later than 15 days before exercising the authority in this section to make funds available to initiate support of an ongoing and authorized operation or changing the scope or funding level of any support under this section for such an operation by \$500,000 or an amount equal to 10 percent of such funding level (whichever is less), the Secretary shall notify the congressional defense committees of the use of such authority with respect to such operation. Any such notification shall be in writing.

(2) ELEMENTS.—A notification required by this subsection shall include the following:

(A) The type of support to be provided to United States Special Operations Forces, and a description of the ongoing and authorized operation to be supported.

(B) A description of the foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating the ongoing and authorized operation that is to be the recipient of funds.

(C) The type of support to be provided to the recipient of the funds, and a description of the end-use monitoring to be used in connection with the use of the funds.

(D) The amount obligated under the authority to provide support.

(E) The duration for which the support is expected to be provided, and an identification of the timeframe in which the provision of support will be reviewed by the commander of the applicable combatant command for a determination with respect to the necessity of continuing such support.

(F) The determination of the Secretary that the provision of support does not constitute any of the following:

(i) An introduction of United States Armed Forces (including as such term is defined in section 8(c) of the War Powers Resolution (50 U.S.C. 1547(c))) into hostilities, or into situations where hostilities are clearly indicated by the circumstances, without specific statutory authorization within the meaning of section 5(b) of such Resolution (50 U.S.C. 1544(b)).

(ii) A covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e)).

(iii) An authorization for the provision of support to regular forces, irregular forces, groups, or individuals for the conduct of operations that United States Special Operations Forces are not otherwise legally authorized to conduct themselves.

(iv) The conduct or support of activities, directly or indirectly, that are inconsistent with the laws of armed conflict.

(h) NOTIFICATION OF SUSPENSION OR TERMINATION OF SUPPORT.—

(1) IN GENERAL.—Not later than 48 hours after suspending or terminating support to

any foreign force, irregular force, group, or individual provided pursuant to the authority in this section, the Secretary shall submit to the congressional defense committees a written notice of such suspension or termination.

(2) ELEMENTS.—The written notice required by paragraph (1) shall include each of the following:

(A) A description of the reasons for the suspension or termination of such support.

(B) A description of any effect on regional, theater, or global campaign plan objectives anticipated to result from such suspension or termination.

(C) A plan for such suspension or termination, and, in the case of support that is planned to be transitioned to any other program of the Department of Defense or to a program of any other Federal department or agency, a detailed description of the transition plan, including the resources, equipment, capabilities, and personnel associated with such plan.

(i) BIANNUAL REPORTS.—

(1) REPORT ON PRECEDING FISCAL YEAR.—Not later than 120 days after the close of each fiscal year in which subsection (a) is in effect, the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the preceding fiscal year.

(2) REPORT ON CURRENT CALENDAR YEAR.—Not later than 180 days after the submittal of each report required by paragraph (1), the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the first half of the fiscal year in which the report under this paragraph is submitted.

(3) ELEMENTS.—Each report required by this subsection shall include the following:

(A) A summary of the ongoing irregular warfare operations, and associated authorized campaign plans, being conducted by United States Special Operations Forces that were supported or facilitated by foreign forces, irregular forces, groups, or individuals for which support was provided under this section during the period covered by such report.

(B) A description of the support or facilitation provided by such foreign forces, irregular forces, groups, or individuals to United States Special Operations Forces during such period.

(C) The type of recipients that were provided support under this section during such period, identified by authorized category (foreign forces, irregular forces, groups, or individuals).

(D) A detailed description of the support provided to the recipients under this section during such period.

(E) The total amount obligated for support under this section during such period, including budget details.

(F) The intended duration of support provided under this section during such period.

(G) An assessment of value of the support provided under this section during such period, including a summary of significant ac-

tivities undertaken by foreign forces, irregular forces, groups, or individuals to support irregular warfare operations by United States Special Operations Forces.

(H) The total amount obligated for support under this section in prior fiscal years.

(j) QUARTERLY BRIEFINGS.—

(1) IN GENERAL.—Not less frequently than quarterly, the Secretary shall provide to the congressional defense committees a briefing on the use of the authority provided by this section, and other matters relating to irregular warfare, with the primary purposes of—

(A) keeping the congressional defense committees fully and currently informed of irregular warfare requirements and activities, including emerging combatant commands requirements; and

(B) consulting with the congressional defense committees regarding such matters.

(2) ELEMENTS.—Each briefing required by paragraph (1) shall include the following:

(A) An update on irregular warfare activities within each geographic combatant command and a description of the manner in which such activities support the respective theater campaign plan and the National Defense Strategy.

(B) An overview of relevant authorities and legal issues, including limitations.

(C) An overview of irregular warfare-related interagency activities and initiatives.

(D) A description of emerging combatant command requirements for the use of the authority provided by this section.

(k) IRREGULAR WARFARE DEFINED.—Subject to subsection (d), in this section, the term “irregular warfare” means Department of Defense activities not involving armed conflict that support predetermined United States policy and military objectives conducted by, with, and through regular forces, irregular forces, groups, and individuals.

(Added Pub. L. 118-31, div. A, title XII, § 1201(a), Dec. 22, 2023, 137 Stat. 437.)

Editorial Notes

PRIOR PROVISIONS

A prior section 127d was renumbered section 331 of this title.

§ 127e. Support of special operations to combat terrorism

(a) AUTHORITY.—The Secretary of Defense may, with the concurrence of the relevant Chief of Mission, expend up to \$100,000,000 during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating authorized ongoing military operations by United States special operations forces to combat terrorism.

(b) FUNDS.—Funds for support under this section in a fiscal year shall be derived from amounts authorized to be appropriated for that fiscal year for the Department of Defense for operation and maintenance.

(c) PROCEDURES.—

(1) IN GENERAL.—The authority in this section shall be exercised in accordance with such

procedures as the Secretary shall establish for purposes of this section. The Secretary shall notify the congressional defense committees of any material change to such procedures.

(2) ELEMENTS.—The procedures required under paragraph (1) shall establish, at a minimum, each of the following:

(A) Policy, strategy, or other guidance for the execution of, and constraints within, activities conducted under this section.

(B) The processes through which activities conducted under this section are to be developed, validated, and coordinated, as appropriate, with relevant Federal entities.

(C) The processes through which legal reviews and determinations are made to comply with this section and ensure that the exercise of the authority in this section is consistent with the national security of the United States.

(d) NOTIFICATION.—

(1) IN GENERAL.—Not later than 15 days before exercising the authority in this section to make funds available to initiate support of an approved military operation or changing the scope or funding level of any support for such an operation by \$1,000,000 or an amount equal to 20 percent of such funding level (whichever is less), or not later than 48 hours after exercising such authority if the Secretary determines that extraordinary circumstances that impact the national security of the United States exist, the Secretary shall notify the congressional defense committees of the use of such authority with respect to that operation. Any such notification shall be in writing.

(2) ELEMENTS.—A notification required by this subsection shall include the following:

(A) The type of support provided or to be provided to United States special operations forces and a description of the authorized ongoing operation.

(B) A description of the foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating the authorized ongoing operation who will receive support provided under this section.

(C) A detailed description of the support provided or to be provided to the recipient.

(D) The amount obligated under the authority to provide support.

(E) A detailed description of the legal and operational authorities related to the authorized ongoing operation, including relevant execute orders issued by the Secretary of Defense and combatant commanders related to the authorized ongoing operation, including an identification of operational activities United States Special Operations Forces are authorized to conduct under such execute orders.

(F) The duration for which the support is expected to be provided and an identification of the timeframe in which the provision of support will be reviewed by the combatant commander for a determination regarding the necessity of continuation of support.

(G) A description of the entities with which the recipients of support are engaged in hostilities and whether each such entity is covered under an authorization for use of military force.