

lance, and reconnaissance capabilities and coordinate the developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs.”

#### § 427. Conflict Records Research Center

(a) CENTER AUTHORIZED.—The Secretary of Defense may establish a center to be known as the “Conflict Records Research Center” (in this section referred to as the “Center”).

(b) PURPOSES.—The purposes of the Center shall be the following:

(1) To establish a digital research database, including translations, and to facilitate research and analysis of records captured from countries, organizations, and individuals, now or once hostile to the United States, with rigid adherence to academic freedom and integrity.

(2) Consistent with the protection of national security information, personally identifiable information, and intelligence sources and methods, to make a significant portion of these records available to researchers as quickly and responsibly as possible while taking into account the integrity of the academic process and risks to innocents or third parties.

(3) To conduct and disseminate research and analysis to increase the understanding of factors related to international relations, counterterrorism, and conventional and unconventional warfare and, ultimately, enhance national security.

(4) To collaborate with members of academic and broad national security communities, both domestic and international, on research, conferences, seminars, and other information exchanges to identify topics of importance for the leadership of the United States Government and the scholarly community.

(c) CONCURRENCE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The Secretary of Defense shall seek the concurrence of the Director of National Intelligence to the extent the efforts and activities of the Center involve the entities referred to in subsection (b)(4).

(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the United States Government may—

(1) provide to the Secretary of Defense services, including personnel support, to support the operations of the Center; and

(2) transfer funds to the Secretary of Defense to support the operations of the Center.

(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

(2) The sources specified in this paragraph are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable

organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department or of any person involved in such a program.

(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) The term “captured record” means a document, audio file, video file, or other material captured during combat operations from countries, organizations, or individuals, now or once hostile to the United States.

(2) The term “gift or donation” means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 113-66, div. A, title X, §1071(a), Dec. 26, 2013, 127 Stat. 867.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 427, added Pub. L. 109-364, div. A, title IX, §932(a), Oct. 17, 2006, 120 Stat. 2362, related to submission of an annual report on intelligence oversight activities of the Department of Defense, prior to repeal by Pub. L. 112-81, div. A, title X, §1061(4)(A), Dec. 31, 2011, 125 Stat. 1583.

#### § 428. Defense industrial security

(a) RESPONSIBILITY FOR DEFENSE INDUSTRIAL SECURITY.—The Secretary of Defense shall be responsible for the protection of classified information disclosed to contractors of the Department of Defense.

(b) CONSISTENCY WITH EXECUTIVE ORDERS AND DIRECTIVES.—The Secretary shall carry out the responsibility assigned under subsection (a) in a manner consistent with Executive Order 12829 (or any successor order to such executive order) and consistent with policies relating to the National Industrial Security Program (or any successor to such program).

(c) PERFORMANCE OF INDUSTRIAL SECURITY FUNCTIONS FOR OTHER AGENCIES.—The Secretary

may perform industrial security functions for other agencies of the Federal government upon request or upon designation of the Department of Defense as executive agent for the National Industrial Security Program (or any successor to such program).

(d) REGULATIONS AND POLICY GUIDANCE.—The Secretary shall prescribe, and from time to time revise, such regulations and policy guidance as are necessary to ensure the protection of classified information disclosed to contractors of the Department of Defense.

(e) DEDICATION OF RESOURCES.—The Secretary shall ensure that sufficient resources are provided to staff, train, and support such personnel as are necessary to fully protect classified information disclosed to contractors of the Department of Defense.

(Added Pub. L. 110-417, [div. A], title VIII, §845(a)(1), Oct. 14, 2008, 122 Stat. 4541, §438; renumbered §428, Pub. L. 111-84, div. A, title X, §1073(a)(4), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 111-383, div. A, title X, §1075(b)(11), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 115-91, div. A, title X, §1051(a)(3), Dec. 12, 2017, 131 Stat. 1560.)

### Editorial Notes

#### REFERENCES IN TEXT

Executive Order 12829, referred to in subsec. (b), is set out as a note under section 3161 of Title 50, War and National Defense.

#### AMENDMENTS

2017—Subsec. (f). Pub. L. 115-91 struck out subsec. (f) which related to biennial reports on expenditures and activities of the Department of Defense in carrying out the requirements of this section.

2011—Subsec. (f). Pub. L. 111-383 struck out “, United States Code,” after “title 31”.

2009—Pub. L. 111-84 renumbered section 438 of this title as this section.

### Statutory Notes and Related Subsidiaries

#### ESTABLISHMENT OF PILOT PROGRAM FOR ACCESS TO SHARED CLASSIFIED COMMERCIAL INFRASTRUCTURE

Pub. L. 118-159, div. A, title VIII, §874, Dec. 23, 2024, 138 Stat. 2012, provided that:

“(a) PILOT PROGRAM REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall establish a pilot program on streamlining access for small business concerns and institutions of higher learning to shared classified commercial infrastructure—

“(1) to expand access to secret or collateral accredited facilities and sensitive compartmented information facilities and special access program facilities to securely perform work under existing classified contracts;

“(2) to reduce the cost and administrative requirements for a facility to receive and maintain accreditation and certification as an accredited facility;

“(3) to increase opportunities for small business concerns and institutions of higher learning to have access to and compete for classified contracts; and

“(4) to identify policy barriers that prevent components of the Department of Defense from more broadly using shared classified commercial infrastructure and prototyping proposed solutions.

“(b) DESIGNATION OF PRINCIPAL CIVILIAN OFFICIAL.—

“(1) IN GENERAL.—The Secretary shall designate an existing civilian official of the Department of Defense who shall be responsible for the administration of the pilot program established under subsection (a).

“(2) RESPONSIBILITIES.—The responsibilities of the civilian official designated under paragraph (1) shall include the following:

“(A) To seek to enter into a contact or other agreement with one or more private entities—

“(i) for access for contractors and components of the Department of Defense to shared classified commercial infrastructure; and

“(ii) to facilitate the use of such infrastructure by covered small business concerns and institutions of higher learning.

“(B) In consultation with the Office of the Director of National Intelligence, to coordinate with the Director of the Defense Counterintelligence and Security Agency, the Director of the Defense Intelligence Agency, and the Director of the Defense Information Systems Agency to update or prescribe policies and regulations governing the process and timelines pertaining to how shared commercial classified infrastructure may obtain relevant facility authorizations and access to secure information technology networks from the Department of Defense.

“(C) To make recommendations to the Secretary of Defense regarding the modernization, streamlining, and acceleration of the approval process of the Department of Defense for contacts, subcontracts, and co-use or joint use agreements for shared classified commercial infrastructure.

“(D) The development and maintenance of metrics tracking the outcomes of each request made under the pilot program for the accreditation of shared commercial classified infrastructure as an accredited facility.

“(c) REQUIREMENTS.—

“(1) POLICIES AND REGULATIONS.—As part of the pilot program established under subsection (a), the Director of the Defense Counterintelligence and Security Agency, the Director of the Defense Intelligence Agency, and the Director of the Defense Information Systems Agency shall each update or prescribe policies and regulations governing the processes and timelines pertaining to how shared commercial classified infrastructure may obtain relevant facility sponsorship, associated authorizations and accreditation, and access to relevant secure information technology networks from the Department of Defense.

“(2) MODERNIZATION, STREAMLINING, AND ACCELERATION.—The Secretary of Defense shall ensure that the pilot program established under subsection (a) includes efforts to modernize, streamline, and accelerate the approval process of the Department of Defense for shared, co-use, and joint use agreements to facilitate the access of small business concerns and institutions of higher learning performing under contracts or other agreements with the Department to classified environments.

“(d) REPORTS.—

“(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, a report on the pilot program established under subsection (a)—

“(A) after the establishment of such pilot program, but not later than two years after the establishment of such pilot program; and

“(B) after the termination of such pilot program pursuant to subsection (e), but not later than 120 days after such termination.

“(2) CONTENTS.—Each report submitted pursuant to paragraph (1) shall include the following:

“(A) A list of each request made under the pilot program for the accreditation of a facility as an accredited facility, including the date on which the request was made to the civilian official designated under subsection (b) and to the relevant facility accreditation agency.

“(B) A list of the total number of personnel authorized to conduct inspections under the pilot program for the accreditation and certification of facilities as accredited facilities.

“(C) Actions taken by the civilian official designated under subsection (b) to streamline the process of the Department of Defense for approval of co-use and joint use agreements to facilitate the access of small business concerns and institutions of higher learning performing under contracts or other agreements with the Department to classified environments, including any updated or new policies or guidance issued as a result of the pilot program.

“(D) A list of all unutilized and currently accredited sensitive compartmented information facilities owned and operated by the Department of Defense that are located within 25 miles of a facility described in subsection (a)(1).

“(E) A list of the metrics or other measures used by the Department of Defense to assess the benefits to the Department from the pilot program established under subsection (a), and any other metrics the Secretary of Defense deems appropriate.

“(e) TERMINATION.—The authority to carry out the pilot program required by subsection (a) and the requirements of this section shall terminate on September 30, 2030.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘institution of higher learning’ has the meaning given such term in section 3452(f) of title 38, United States Code.

“(2) The term ‘shared commercial classified infrastructure’ means fully managed, shared, classified infrastructure (including physical facilities), and associated services that are operated by a private third-party for the benefit of appropriately cleared government and contractor personnel who have limited or constrained access to secret collateral and sensitive compartmented information facilities.

“(3) The term ‘small business concern’ has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632).”

#### PILOT PROGRAM FOR DEPARTMENT OF DEFENSE CONTROLLED UNCLASSIFIED INFORMATION IN THE HANDS OF INDUSTRY

Pub. L. 115-232, div. A, title X, § 1048, Aug. 13, 2018, 132 Stat. 1961, provided that:

“(a) IN GENERAL.—The Secretary of Defense—

“(1) shall establish and implement a pilot program for oversight of designated Department of Defense controlled unclassified information in the hands of defense contractors with foreign ownership, control, or influence concerns; and

“(2) may designate an entity within the Department to be responsible for the pilot program under paragraph (1).

“(b) PROGRAM REQUIREMENTS.—The pilot program under subsection (a) shall have the following elements:

“(1) The use of a capability to rapidly identify companies subject to foreign ownership, control, or influence that are processing designated controlled unclassified information, including unclassified controlled technical information.

“(2) The use, in consultation with the Chief of Information Officer of the Department, of a capability or means for assessing industry compliance with Department cybersecurity standards.

“(3) A means of demonstrating whether and under what conditions the risk to national security posed by access to Department controlled unclassified information, including unclassified controlled technical information, by a company under foreign ownership, control, or influence company can be mitigated and how such mitigation could be enforced.

“(c) BRIEFING REQUIRED.—By not later than 30 days after the completion of the pilot program under this section, but in no case later than December 1, 2019, the Secretary shall provide to the congressional defense

committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the results of the pilot program and any decisions about whether to implement the pilot program on a Department-wide basis.”

#### REQUIREMENTS RELATING TO MULTI-USE SENSITIVE COMPARTMENTED INFORMATION FACILITIES

Pub. L. 115-91, div. A, title XVI, § 1628, Dec. 12, 2017, 131 Stat. 1735, provided that:

“(a) IN GENERAL.—In order to facilitate access for small business concerns and nontraditional defense contractors to affordable secure spaces, the Secretary of Defense, in consultation with the Director of National Intelligence, shall develop processes and procedures necessary to build, certify, and maintain certifications for multi-use sensitive compartmented information facilities not tied to a single contract and where multiple companies can securely work on multiple projects at different security levels.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘small business concern’ has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

“(2) The term ‘nontraditional defense contractors’ has the meaning given that term in section 2302 of title 10, United States Code [now 10 U.S.C. 3014].”

#### REQUIREMENT FOR ENTITIES WITH FACILITY CLEARANCES THAT ARE NOT UNDER FOREIGN OWNERSHIP CONTROL OR INFLUENCE MITIGATION

Pub. L. 111-383, div. A, title VIII, § 845, Jan. 7, 2011, 124 Stat. 4285, provided that:

“(a) REQUIREMENT.—The Secretary of Defense shall develop a plan to ensure that covered entities employ and maintain policies and procedures that meet requirements under the national industrial security program. In developing the plan, the Secretary shall consider whether or not covered entities, or any category of covered entities, should be required to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

“(b) COVERED ENTITY.—A covered entity under this section is an entity—

“(1) to which the Department of Defense has granted a facility clearance; and

“(2) that is not subject to foreign ownership control or influence mitigation measures.

“(c) GUIDANCE.—The Secretary of Defense shall issue guidance, including appropriate compliance mechanisms, to implement the requirement in subsection (a). To the extent determined appropriate by the Secretary, the guidance shall require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

“(d) REPORT.—Not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan developed pursuant to subsection (a) and the guidance issued pursuant to subsection (c). The report shall specifically address the rationale for the Secretary’s decision on whether or not to require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.”

#### SUBMISSION OF FIRST BIENNIAL REPORT

Pub. L. 110-417, [div. A], title VIII, § 845(b), Oct. 14, 2008, 122 Stat. 4542, required the first biennial report under former subsec. (f) of this section to be submitted no later than Sept. 1, 2009.

**§ 429. Appropriations for Defense intelligence elements: accounts for transfers; transfer authority**

(a) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS.—The Secretary of Defense may transfer appropriations of the Department of Defense which are available for the activities of Defense intelligence elements to an account or accounts established for receipt of such transfers. Each such account may also receive transfers from the Director of National Intelligence if made pursuant to section 102A of the National Security Act of 1947 (50 U.S.C. 3024) and transfers and reimbursements arising from transactions, as authorized by law, between a Defense intelligence element and another entity. Appropriation balances in each such account may be transferred back to the account or accounts from which such appropriations originated as appropriation refunds.

(b) RECORDATION OF TRANSFERS.—Transfers made pursuant to subsection (a) shall be recorded as expenditure transfers.

(c) AVAILABILITY OF FUNDS.—Funds transferred pursuant to subsection (a) shall remain available for the same time period and for the same purpose as the appropriation from which transferred, and shall remain subject to the same limitations provided in the law making the appropriation.

(d) OBLIGATION AND EXPENDITURE OF FUNDS.—Unless otherwise specifically authorized by law, funds transferred pursuant to subsection (a) shall only be obligated and expended in accordance with chapter 15 of title 31 and all other applicable provisions of law.

(e) DEFENSE INTELLIGENCE ELEMENT DEFINED.—In this section, the term “Defense intelligence element” means any of the Department of Defense agencies, offices, and elements included within the definition of “intelligence community” under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(Added Pub. L. 112–87, title IV, § 433(a), Jan. 3, 2012, 125 Stat. 1894; amended Pub. L. 113–291, div. A, title X, § 1071(c)(5), (f)(6), Dec. 19, 2014, 128 Stat. 3508, 3510.)

**Editorial Notes**

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–291, § 1071(c)(5)(A), substituted “section 102A of the National Security Act of 1947 (50 U.S.C. 3024)” for “Section 102A of the National Security Act of 1947 (50 U.S.C. 403–1)”.

Subsec. (c). Pub. L. 113–291, § 1071(f)(6), substituted “law” for “act”.

Subsec. (e). Pub. L. 113–291, § 1071(c)(5)(B), substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 401a(4))”.

**§ 429a. Expenditure of funds for Department of Defense intelligence and counterintelligence activities**

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of Defense may expend amounts made available for the Military Intelligence Program for intelligence and counterintelligence activities for any purpose the Secretary determines to be proper with regard to intelligence and counterintelligence objects of a confidential, extraordinary, or emergency na-

ture. Such a determination is final and conclusive upon the accounting officers of the United States.

(b) LIMITATION ON AMOUNT.—The Secretary of Defense may not expend more than five percent of the amounts described in subsection (a) for any fiscal year for objects described in that subsection unless—

(1) the Secretary notifies the congressional defense committees and the congressional intelligence committees of the intent to expend the amounts and purpose of the expenditure; and

(2) 30 days have elapsed from the date on which the Secretary provides the notice described in paragraph (1).

(c) CERTIFICATION.—For each expenditure of funds under this section, the Secretary shall certify that such expenditure was made for an object of a confidential, extraordinary, or emergency nature.

(d) REPORT.—Not later than December 31 of each year, the Secretary of Defense shall submit to the congressional defense committees and the congressional intelligence committees a report on expenditures made under this section during the fiscal year preceding the year in which the report is submitted. Each such report shall include, for each expenditure under this section during the fiscal year covered by the report, a description, the purpose, the program element, and the certification required under section (c).

(e) LIMITATION ON DELEGATIONS.—The Secretary of Defense may not delegate the authority under this section with respect to any expenditure in excess of \$200,000.

(f) NONAPPLICATION OF SECTION 127.—The authority provided by subsection (a) shall be the exclusive authority available to the Secretary of Defense to expend amounts made available for the Military Intelligence Program for intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature.

(g) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term “congressional intelligence committees” means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

(Added and amended Pub. L. 118–159, div. A, title XVI, § 1614(a)–(e)(1), Dec. 23, 2024, 138 Stat. 2168, 2169.)

**Editorial Notes**

CODIFICATION

The text of section 1057 of Pub. L. 116–92, which was transferred to this subchapter, inserted after section 429 of this title, redesignated as this section, and amended by Pub. L. 118–159, div. A, title XVI, § 1614(a)–(e)(1), Dec. 23, 2024, 138 Stat. 2168, 2169, was based on Pub. L. 116–92, div. A, title X, § 1057, Dec. 20, 2019, 133 Stat. 1593.

AMENDMENTS

2024—Pub. L. 118–159, § 1614(a), transferred section 1057 of Pub. L. 116–92 to this subchapter, inserted it after section 429 of this title, redesignated it as this section, and conformed “SEC.” preceding section designation and catchline text to the style used in this title. See Codification note above.