

§ 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.

Subsec. (a). Pub. L. 118–159, § 1614(b), struck out “for any of fiscal years 2020 through 2025” after “Military Intelligence Program”.

Subsec. (d). Pub. L. 118–159, § 1614(c), substituted “Not later than December 31 of each year” for “Not later than December 31 of each of 2020 through 2025”.

Subsec. (e). Pub. L. 118–159, § 1614(d), substituted “\$200,000” for “\$100,000”.

Subsecs. (f), (g). Pub. L. 118–159, § 1614(e)(1), added subsec. (f) and redesignated former subsec. (f) as (g).

§ 430. Tactical Exploitation of National Capabilities Executive Agent

(a) DESIGNATION.—The Under Secretary of Defense for Intelligence and Security shall designate a civilian employee of the Department or a member of the armed forces to serve as the Tactical Exploitation of National Capabilities Executive Agent.

(b) DUTIES.—The Executive Agent designated under subsection (a) shall—

(1) report directly to the Under Secretary of Defense for Intelligence and Security;

(2) work with the combatant commands, military departments, and the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) to—

(A) develop methods to increase warfighter effectiveness through the exploitation of national capabilities; and

(B) promote cross-domain integration of such capabilities into military operations, training, intelligence, surveillance, and reconnaissance activities.

(Added Pub. L. 113–291, div. A, title XVI, § 1621(a), Dec. 19, 2014, 128 Stat. 3631; amended Pub. L. 116–92, div. A, title XVI, § 1621(e)(1)(A)(viii), Dec. 20, 2019, 133 Stat. 1733; Pub. L. 116–283, div. A, title X, § 1081(a)(17), Jan. 1, 2021, 134 Stat. 3871.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116–283 inserted “and Security” after “for Intelligence”.

2019—Subsec. (a). Pub. L. 116–92 substituted “Under Secretary of Defense for Intelligence and Security” for “Under Secretary of Defense for Intelligence”.

§ 430a. Executive agent for management and oversight of alternative compensatory control measures

(a) EXECUTIVE AGENT.—The Secretary of Defense shall designate a senior official from among the personnel of the Department of Defense to act as the Department of Defense executive agent for the management and oversight of alternative compensatory control measures.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—The Secretary shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a). Such roles, responsibilities, and authorities shall include the development of an annual management and oversight plan for Department-wide accountability and reporting to the congressional defense committees.

(Added Pub. L. 114–92, div. A, title X, § 1083(a)(1), Nov. 25, 2015, 129 Stat. 1003.)

§ 430b. Executive agent for open-source intelligence tools

(a) DESIGNATION.—Not later than April 1, 2016, the Secretary of Defense shall designate a senior official of the Department of Defense to serve as the executive agent for the Department for open-source intelligence tools.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—(1) Not later than July 1, 2016, in accordance with Directive 5101.1, the Secretary shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a).

(2) The roles and responsibilities of the executive agent designated under subsection (a) shall include the following:

(A) Developing and maintaining a comprehensive list of open-source intelligence tools and technical standards.

(B) Establishing priorities for the development, acquisition, and integration of open-source intelligence tools into the intelligence enterprise, and other command and control systems as needed.

(C) Certifying all open-source intelligence tools with respect to compliance with the standards required by the framework and guidance for the Intelligence Community Information Technology Enterprise, the Defense Intelligence Information Enterprise, and the Joint Information Environment.

(D) Assessing and making recommendations regarding the protection of privacy in the acquisition, analysis, and dissemination of open-source information available around the world.

(E) Performing such other assessments or analyses as the Secretary considers appropriate.

(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.1, the Secretary shall ensure that the military departments, the Defense Agencies, and other elements of the Department of Defense provide the executive agent designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

(d) DEFINITIONS.—In this section:

(1) The term “Directive 5101.1” means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

(2) The term “executive agent” has the meaning given the term “DoD Executive Agent” in Directive 5101.1.

(3) The term “open-source intelligence tools” means tools for the systematic collection, processing, and analysis of publicly available information for known or anticipated intelligence requirements.

(Added Pub. L. 114–92, div. A, title XVI, § 1631(a), Nov. 25, 2015, 129 Stat. 1110.)

§ 430c. Senior intelligence oversight official¹

(a) ESTABLISHMENT.—The Secretary of Defense, or a designee of the Secretary determined

¹ So in original. Appears in text capitalized as “Senior Intelligence Oversight Official”.