

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 official<sup>1</sup>

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

<sup>1</sup> So in original. Appears in text capitalized as “Senior Intelligence Oversight Official”.

by regulations prescribed by the Secretary, shall designate a civilian employee of the Department of Defense in the Senior Executive Service to serve as the Senior Intelligence Oversight Official.

(b) **RESPONSIBILITIES.**—The Senior Intelligence Oversight Official shall conduct independent oversight of all intelligence, counterintelligence, and intelligence-related activities of the Department of Defense and shall have such other related responsibilities as may be determined by the Secretary.

(c) **ACCESS.**—The Senior Intelligence Oversight Official shall have—

(1) access to all information necessary to carry out the responsibilities and functions of the Senior Intelligence Oversight Official, as determined by the Secretary; and

(2) direct access to the Secretary of Defense and the Deputy Secretary of Defense, as circumstances require in the determination of the Senior Intelligence Oversight Official.

(Added Pub. L. 118–159, div. A, title IX, §921(a), Dec. 23, 2024, 138 Stat. 2036.)

#### Statutory Notes and Related Subsidiaries

##### REVIEW OF REGULATIONS

Pub. L. 118–159, div. A, title IX, §921(b), Dec. 23, 2024, 138 Stat. 2036, provided that: “The Secretary of Defense shall review and update, as appropriate, Department of Defense Directive 5148.13, and any associated or successor regulation or directive, to conform to section 430c of title 10, United States Code, as added by subsection (a).”

#### § 430d. Cyber intelligence capability

(a) **REQUIREMENT.**—Not later than October 1, 2026, the Secretary of Defense, in consultation with the Director of National Intelligence, shall ensure that the Department of Defense has a dedicated cyber intelligence capability in support of the military cyber operations requirements for the warfighting missions of the United States Cyber Command, the other combatant commands, the military departments, the Defense Agencies, the Joint Staff, and the Office of the Secretary of Defense with respect to foundational, scientific and technical, and all-source intelligence on cyber technology development, capabilities, concepts of operation, operations, and plans and intentions of cyber threat actors.

(b) **NONDUPLICATION.**—In carrying out subsection (a), the Secretary may not unnecessarily duplicate intelligence activities of the Department of Defense.

(c) **RESOURCES.**—(1) The Secretary shall ensure the defense budget materials submitted for each fiscal year beginning with fiscal year 2027 include a request for funds necessary to carry out subsection (a).

(2) The Secretary shall carry out subsection (a) using funds made available for the United States Cyber Command under the Military Intelligence Program.

(3) The National Security Agency may not provide information technology services for the dedicated cyber intelligence capability under subsection (a) unless such services are provided under the Military Intelligence Program or the Information Systems Security Program.

(d) **DEFENSE BUDGET MATERIALS DEFINED.**—In this section, the term “defense budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(Added Pub. L. 118–159, div. A, title XVI, §1612(a), Dec. 23, 2024, 138 Stat. 2167.)

#### SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

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#### Editorial Notes

##### AMENDMENTS

1992—Pub. L. 102–484, div. A, title X, §1052(1), Oct. 23, 1992, 106 Stat. 2499, inserted “Sec.” above item “431”.

1991—Pub. L. 102–88, title V, §504(a)(2), Aug. 14, 1991, 105 Stat. 437, added subchapter heading and analysis of sections.

#### § 431. Authority to engage in commercial activities as security for intelligence collection activities

(a) **AUTHORITY.**—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 2028.

(b) **INTERAGENCY COORDINATION AND SUPPORT.**—Any such activity shall—

(1)(A) be pre-coordinated with the Director of the Central Intelligence Agency using procedures mutually agreed upon by the Secretary of Defense and the Director; and

(B) where appropriate, be supported by the Director; and

(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

(c) **DEFINITIONS.**—In this subchapter:

(1) The term “commercial activities” means activities that are conducted in a manner consistent with prevailing commercial practices and includes—

(A) the acquisition, use, sale, storage and disposal of goods and services;

(B) entering into employment contracts and leases and other agreements for real and personal property;

(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

(D) acquiring licenses, registrations, permits, and insurance; and

(E) establishing corporations, partnerships, and other legal entities.