

1998—Subsec. (c)(3). Pub. L. 105–277, § 2210(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “in evaluating and scoring proposals for such contracts, award not less than 60 percent of the total points on the basis of technical factors and subfactors;”.

Subsec. (c)(5). Pub. L. 105–277, § 2210(2), inserted “and” at end.

Subsec. (c)(6). Pub. L. 105–277, § 2210(3), substituted period for “; and” at end.

Subsec. (c)(7). Pub. L. 105–277, § 2210(4), struck out par. (7) which read as follows: “give preference to United States persons and qualified United States joint venture persons where such persons are price competitive to the non-United States persons bidding on the contract, are properly licensed by the host government, and are otherwise qualified to carry out all the terms of the contract.”

1994—Subsec. (c). Pub. L. 103–236, § 141(1), added pars. (2) to (5), redesignated former pars. (2) and (3) as (6) and (7), respectively, and in par. (6) struck out “due to their distance from the post” after “evaluation process”.

Subsec. (d)(1)(D). Pub. L. 103–236, § 141(2)(A), substituted “or” for “and”.

Subsec. (d)(4). Pub. L. 103–236, § 141(2)(B)–(D), added par. (4).

Statutory Notes and Related Subsidiaries

STRENGTHENING OVERSIGHT

Pub. L. 115–31, div. J, title VII, § 7004(i), May 5, 2017, 131 Stat. 618, provided that: “Funds appropriated by this Act [div. J of Pub. L. 115–31, 131 Stat. 589, see Tables for classification] and prior Acts making appropriations for the Department of State, foreign operations, and related programs under the heading ‘Diplomatic and Consular Programs’ for Worldwide Security Protection shall be made available to strengthen oversight of the local guard force at a critical post abroad through the use of United States Government employees or contractors who are United States citizens: *Provided*, That such funds are in addition to funds otherwise made available by such Acts for such purposes: *Provided further*, That the total annual operating costs associated with providing such oversight in fiscal year 2017 and subsequent fiscal years shall be shared among agencies through the International Cooperative Administrative Support Services program: *Provided further*, That not later than 45 days after enactment of this Act [May 5, 2017], and prior to the obligation of funds for such purposes, the Secretary of State shall consult with the Committees on Appropriations on plans to carry out the requirement of this subsection.”

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§ 4865. Security requirements for United States diplomatic facilities

(a) In general

The following security requirements shall apply with respect to United States diplomatic facilities and specified personnel:

(1) Threat assessment

(A) Emergency Action Plan

The Emergency Action Plan (EAP) of each United States mission shall address a range of threats, including that of large explosive attacks from vehicles and from complex at-

tacks (as such term is defined in section 4866 of this title), and the safety of employees during such an explosive attack or such a complex attack. Such plan shall be reviewed and updated annually.

(B) Security Environment Threat List

The Security Environment Threat List shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities. Such plan shall be reviewed and updated every six months.

(2) Site selection

(A) In general

In selecting a site for any new United States diplomatic facility abroad in a location that has certain minimum ratings under the Security Environment Threat List as determined by the Secretary in his or her discretion, the Secretary shall ensure that all United States Government personnel at the post (except those under the command of an area military commander, personnel of the Peace Corps, and personnel of any other type or category of facility that the Secretary may identify) will be located on the site.

(B) Waiver authority

(i) In general

Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary, in consultation with, as appropriate, the head of each agency employing personnel that would not be located at the site, if applicable, determines that it is in the national interest of the United States after taking account of any considerations the Secretary in his or her discretion considers relevant, which may include security conditions.

(ii) Chancery or consulate building

Prior to implementing the waiver authority under clause (i) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.

(iii) Report to Congress

The Secretary shall submit to the appropriate congressional committees an annual report of all waivers under this subparagraph.

(3) Perimeter distance

(A) Requirement

(i) In general

Each newly acquired United States diplomatic facility in a location that has certain minimum ratings under the Security Environment Threat List as determined by the Secretary of State in his or her discretion shall—

(I) be constructed or modified to meet the measured building blast performance standard applicable to a diplomatic facility sited not less than 100 feet from the perimeter of the property on which the facility is situated; or

(II) fulfill the criteria described in clause (i).

(ii) Alternative engineering equivalency standard requirement

Each facility referred to in clause (i) may, instead of meeting the requirement under such clause, fulfill such other criteria as the Secretary is authorized to employ to achieve an engineering standard of security and degree of protection that is equivalent to the numerical perimeter distance setback described in such clause seeks to achieve.

(B) Waiver authority

(i) In general

Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary determines that it is in the national interest of the United States after taking account of any considerations the Secretary in his or her discretion considers relevant, which may include security conditions.

(ii) Chancery or consulate building

Prior to implementing the waiver authority under subparagraph (A) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.

(iii) Report to Congress

The Secretary shall submit to the appropriate congressional committees a quarterly report of all waivers under this subparagraph.

(4) Crisis management training

(A) Training of headquarters staff

The appropriate personnel of the Department of State headquarters staff shall undertake crisis management training for mass casualty and mass destruction incidents relating to diplomatic facilities for the purpose of bringing about a rapid response to such incidents from Department of State headquarters in Washington, D.C.

(B) Training of personnel abroad

A program of appropriate instruction in crisis management shall be provided to personnel at United States diplomatic facilities abroad at least on an annual basis.

(5) Diplomatic security training

Not later than six months after November 29, 1999, the Secretary of State shall—

(A) develop annual physical fitness standards for all diplomatic security agents to ensure that the agents are prepared to carry out all of their official responsibilities; and

(B) provide for an independent evaluation by an outside entity of the overall adequacy

of current new agent, in-service, and management training programs to prepare agents to carry out the full scope of diplomatic security responsibilities, including preventing attacks on United States personnel and facilities.

(6) State Department support

(A) Foreign Emergency Support Team

The Foreign Emergency Support Team (FEST) of the Department of State shall receive sufficient support from the Department, including—

(i) conducting routine training exercises of the FEST;

(ii) providing personnel identified to serve on the FEST as a collateral duty;

(iii) providing personnel to assist in activities such as security, medical relief, public affairs, engineering, and building safety; and

(iv) providing such additional support as may be necessary to enable the FEST to provide support in a post-crisis environment involving mass casualties and physical damage.

(B) FEST aircraft

(i) Replacement aircraft

The President shall develop a plan to replace on a priority basis the current FEST aircraft funded by the Department of Defense with a dedicated, capable, and reliable replacement aircraft and backup aircraft to be operated and maintained by the Department of Defense.

(ii) Report

Not later than 60 days after November 29, 1999, the President shall submit a report to the appropriate congressional committees describing the aircraft selected pursuant to clause (i) and the arrangements for the funding, operation, and maintenance of such aircraft.

(iii) Authority to lease aircraft to respond to a terrorist attack abroad

Subject to the availability of appropriations, when the Attorney General of the Department of Justice exercises the Attorney General's authority to lease commercial aircraft to transport equipment and personnel in response to a terrorist attack abroad if there have been reasonable efforts to obtain appropriate Department of Defense aircraft and such aircraft are unavailable, the Attorney General shall have the authority to obtain indemnification insurance or guarantees if necessary and appropriate.

(7) Rapid response procedures

The Secretary of State shall enter into a memorandum of understanding with the Secretary of Defense setting out rapid response procedures for mobilization of personnel and equipment of their respective departments to provide more effective assistance in times of emergency with respect to United States diplomatic facilities, including at high risk, high threat posts (as such term is defined in section

4803 of this title), including options for the deployment of additional military personnel or equipment to bolster security and rapid deployment of armed or surveillance assets in response to an attack.

(8) Storage of emergency equipment and records

All United States diplomatic facilities shall have emergency equipment and records required in case of an emergency situation stored at an off-site facility.

(b) Statutory construction

Nothing in this section alters or amends existing security requirements not addressed by this section.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §606], Nov. 29, 1999, 113 Stat. 1536, 1501A–454; Pub. L. 114–323, title I, §102, Dec. 16, 2016, 130 Stat. 1909; Pub. L. 117–263, div. I, title XCIII, §9301(e)(2), Dec. 23, 2022, 136 Stat. 3881.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Secure Embassy Construction and Counterterrorism Act of 1999, and also as part of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, and not as part of the Diplomatic Security Act which comprises this chapter.

AMENDMENTS

2022—Subsec. (a)(1)(A). Pub. L. 117–263, §9301(e)(2)(A), substituted “a range of threats, including that” for “the threat”.

Subsec. (a)(2)(A). Pub. L. 117–263, §9301(e)(2)(B)(i), inserted “in a location that has certain minimum ratings under the Security Environment Threat List as determined by the Secretary in his or her discretion” after “abroad” and “, personnel of the Peace Corps, and personnel of any other type or category of facility that the Secretary may identify” after “military commander”.

Subsec. (a)(2)(B)(i). Pub. L. 117–263, §9301(e)(2)(B)(ii)(I), amended cl. (i) generally. Prior to amendment, text read as follows: “Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary, together with the head of each agency employing personnel that would not be located at the site, determine that security considerations permit and it is in the national interest of the United States.”

Subsec. (a)(2)(B)(ii). Pub. L. 117–263, §9301(e)(2)(B)(ii)(II), substituted “Prior” for subcl. (I), subcl. (II) designation and heading, and “Not less than 15 days prior”. Prior to amendment, text of subcl. (I) read as follows: “The Secretary may not delegate the waiver authority under clause (i) with respect to a chancery or consulate building.”

Subsec. (a)(3)(A). Pub. L. 117–263, §9301(e)(2)(C)(i), amended subpar. (A) generally. Prior to amendment, text read as follows: “Each newly acquired United States diplomatic facility shall be sited not less than 100 feet from the perimeter of the property on which the facility is to be situated.”

Subsec. (a)(3)(B)(i). Pub. L. 117–263, §9301(e)(2)(C)(ii)(I), struck out “security considerations permit and” after “if the Secretary determines that” and inserted “after taking account of any considerations the Secretary in his or her discretion considers relevant, which may include security conditions” after “national interest of the United States”.

Subsec. (a)(3)(B)(ii). Pub. L. 117–263, §9301(e)(2)(C)(ii)(II), substituted “Prior” for subcl. (I), subcl. (II) designation and heading, and “Not less than 15 days prior”. Prior to amendment, text of subcl. (I) read as follows: “The Secretary may not delegate the

waiver authority under clause (i) with respect to a chancery or consulate building.”

Subsec. (a)(3)(B)(iii). Pub. L. 117–263, §9301(e)(2)(C)(ii)(III), substituted “a quarterly” for “an annual”.

2016—Subsec. (a)(1)(A). Pub. L. 114–323, §102(1), inserted “and from complex attacks (as such term is defined in section 4866 of this title),” after “attacks from vehicles” and “or such a complex attack” after “an explosive attack”.

Subsec. (a)(7). Pub. L. 114–323, §102(2), inserted before period at end “, including at high risk, high threat posts (as such term is defined in section 4803 of this title), including options for the deployment of additional military personnel or equipment to bolster security and rapid deployment of armed or surveillance assets in response to an attack”.

Statutory Notes and Related Subsidiaries

OVERSEAS CRISIS RESPONSE SYSTEM AND STRATEGY

Pub. L. 118–159, div. G, title LXXII, §7216, Dec. 23, 2024, 138 Stat. 2538, provided that:

“(a) SENIOR FOCAL POINT ON CRISIS MANAGEMENT AND RESPONSE.—

“(1) DESIGNATION.—The Secretary [of State] shall designate a senior official with significant experience in crisis management and response to support the Department’s [Department of State’s] response to and management of international crises as defined in subsection (e).

“(2) DUTIES.—The Senior Focal Point for Crisis Management and Response shall facilitate the Department’s coordinated response to crisis management and response, in a manner consistent with roles and responsibilities of other senior Department and USAID [United States Agency for International Development] personnel assigned to address and implement crisis management and response activities, and will carry out relevant activities to include the following:

“(A) Coordinate the Department’s response to and management of international crises.

“(B) Coordinate with regional and other relevant Department bureaus and USAID on such crises and other matters relevant to crisis management and response.

“(C) Facilitate information necessary for the execution of after-action reviews after international crises.

“(D) Maintain close liaison with the appropriate congressional committees [Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives] regarding the Department’s response to and management of international crises.

“(E) Undertake other duties, as determined by the Secretary in consultation with the Administrator [of the United States Agency for International Development], relevant to crisis management and response.

“(3) REPORTING.—The Senior Focal Point for Crisis Management and Response shall report directly to the Secretary in the execution of the duties described under paragraph (2).

“(b) TABLETOP EXERCISES AND SIMULATIONS.—

“(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 23, 2024], and not less frequently than annually thereafter for 3 years, the Secretary shall direct the relevant offices of the Department to ensure a tabletop exercise or simulation on international crises is conducted by the Department. The tabletop exercise or simulation should be conducted in the Washington, D.C. metropolitan area.

“(2) MATTERS TO BE INCLUDED.—The Secretary shall ensure that such exercises or simulations address the Department’s crisis response and evacuation requirements, and should include—

“(A) the necessary and appropriate information to outline the crisis management roles and responsibilities of the Department’s senior leadership;

“(B) established Department crisis management structures for international crises;

“(C) required processes, personnel, and resources for operational drawdown and evacuation operations in international crises; and

“(D) all procedures relevant to the identification of, coordination with, and the provision of assistance to—

“(i) private United States citizens;

“(ii) United States Government employees and their dependents;

“(iii) United States allies and partners;

“(iv) local nationals who have assisted United States Government efforts; and

“(v) third-country nationals.

“(3) LEADERSHIP; PARTICIPATION.—The Secretary shall ensure that—

“(A) the Department’s Senior Focal Point on Crisis Management and Response, the Operation Center’s Crisis Management and Strategy team, the Foreign Service Institute’s Leadership and Management School’s Crisis Management Training division, or other Department operating units, as determined to be appropriate by the Secretary, lead such exercises or simulations; and

“(B) such exercises or simulations include the participation of the Department’s relevant senior leadership and staff, including leadership and staff from regional and relevant functional bureaus.

“(4) CONSULTATION.—Such exercises or simulations may be conducted in consultation with—

“(A) the Department of Defense;

“(B) other Federal agencies; and

“(C) State and local government entities.

“(5) PARTICIPATION.—The Secretary may, as consistent with the national security interests of the United States, invite to participate in such exercises or simulations—

“(A) foreign allies and partners; and

“(B) civil society and nongovernmental organizations, including those that have directly engaged in crisis response efforts in the past.

“(6) BRIEFING.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), not later than 90 days after the completion of any tabletop exercise or simulation required under paragraph (1), the Department shall brief the appropriate congressional committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives on the organization of the tabletop exercise or simulation. The briefing, or particular elements therein, may be provided in a classified format.

“(B) ELEMENTS.—The briefing required under subparagraph (A) should—

“(i) provide a description of the tabletop exercise or simulation;

“(ii) identify, as appropriate, key participants in the tabletop exercise or simulation;

“(iii) include any deficiencies identified in prior tabletop exercise and plans to mitigate such deficiencies;

“(iv) provide a summary of the supporting capabilities, including infrastructure, prepositioned equipment and supplies, personnel and other supporting logistics capabilities, required to respond to the simulated international crisis; and

“(v) include such other information as determined necessary or appropriate by the Secretary.

“(C) NOTIFICATION IN LIEU OF BRIEFING.—Beginning on the date that is 3 years after the date of the enactment of this Act, the Secretary shall, not later than 90 days after the completion of any tabletop exercise or simulation required under paragraph (1), submit to the appropriate congressional committees a notice of such exercise or simulation

which shall be in lieu of a briefing reviewing the tabletop exercise or simulation required under subparagraph (A).

“(c) FOREIGN SERVICE INSTITUTE TRAINING.—The Secretary shall ensure existing crisis management curricula and courses offerings are reviewed for accuracy and tailored to relevant audiences. In addition, the Foreign Service Institute should ensure that the ambassadorial seminar and Deputy Chief of Mission course include curriculum on crisis management, including one or more of the following:

“(1) The use of regular internal town halls and targeted messages from the Ambassador or Deputy Chief of Mission to support mission objectives during crisis periods.

“(2) Established best practices for internal communications specific to high-threat posts.

“(3) Diplomatic post-led drawdown and evacuation operations, military assisted departures, and non-combatant evacuation operations.

“(4) Best practices for leading post efforts to communicate with and assist United States citizens.

“(5) How to conduct or participate in the Department’s domestic-led tabletop exercises and simulations, including those authorized in subsection (b).

“(6) Communicating with and assessing the needs of locally employed staff during emergencies.

“(d) DEPARTMENT OF STATE EMERGENCY RESPONSE LESSONS LEARNED CLEARINGHOUSE.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary shall establish and maintain a clearinghouse of lessons learned and after-action reports relating to international crises, including evacuation operations of United States Government employees and their eligible family members or evacuation of private United States citizens or third-country nationals, to be known as the ‘Department of State Emergency Response Lessons Learned Clearinghouse’ (in this section referred to as the ‘Clearinghouse’).

“(2) REPOSITORY.—The Clearinghouse should be designed to provide—

“(A) a central electronic repository of lessons learned and after-action reports to be made accessible to Department personnel to be used to improve crisis response and contingency planning;

“(B) resources to inform and develop crisis response and contingency planning, including for the ambassadorial seminar and Deputy Chief of Mission course as provided in subsection (c); and

“(C) publicly available documents and information, as appropriate, for civil society, nongovernmental organizations, academic institutions, and other stakeholders to assist with the Department’s development of best practices.

“(e) INTERNATIONAL CRISIS DEFINED.—In this section, the term ‘international crisis’ means any situation overseas which requires the Department to change the operating status of United States diplomatic facilities, including a diplomatic post-led or military-assisted departure, ordered departure, or a noncombatant evacuation operation.”

CRISIS RESPONSE OPERATIONS

Pub. L. 118-31, div. F, title LXIV, §6404, Dec. 22, 2023, 137 Stat. 997, provided that:

“(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this division [Dec. 22, 2023], the Secretary [of State] shall institute the following changes and ensure that the following elements have been integrated into the ongoing crisis response management and response by the Crisis Management and Strategy Office:

“(1) The Department [of State]’s crisis response planning and operations shall conduct, maintain, and update on a regular basis contingency plans for posts and regions experiencing or vulnerable to conflict or emergency conditions, including armed conflict, natural disasters, significant political or military upheaval, and emergency evacuations.

“(2) The Department’s crisis response efforts shall be led by an individual with significant experience responding to prior crises, who shall be so designated by the Secretary.

“(3) The Department’s crisis response efforts shall provide at least quarterly updates to the Secretary and other relevant senior officials, including a plan and schedule to develop contingency planning for identified posts and regions consistent with paragraph (1).

“(4) The decision to develop contingency planning for any particular post or region shall be made independent of any regional bureau.

“(5) The crisis response team shall develop and maintain best practices for evacuations, closures, and emergency conditions.

“(b) UPDATES.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this division, and every 180 days thereafter for the next five years, the Secretary shall submit to the appropriate congressional committees [Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives], the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives an update outlining the steps taken to implement this section, along with any other recommendations to improve the Department’s crisis management and response operations.

“(2) CONTENTS.—Each update submitted pursuant to paragraph (1) should include—

“(A) a list of the posts whose contingency plans, including any noncombatant evacuation contingencies, has been reviewed and updated as appropriate during the preceding 180 days; and

“(B) an assessment of the Secretary’s confidence that each post—

“(i) has continuously reached out to United States persons in country to maintain and update contact information for as many such persons as practicable; and

“(ii) is prepared to communicate with such persons in an emergency or crisis situation.

“(3) FORM.—Each update submitted pursuant to paragraph (1) shall be submitted in unclassified form, but may include a classified annex.”

INCLUSION OF SENSITIVE COMPARTMENTED INFORMATION FACILITIES IN UNITED STATES DIPLOMATIC FACILITIES IN CUBA

Pub. L. 114-113, div. M, title V, §513, Dec. 18, 2015, 129 Stat. 2926, provided that:

“(a) RESTRICTED ACCESS SPACE REQUIREMENT.—Each United States diplomatic facility in Cuba in which classified information will be processed or in which classified communications occur that, after the date of the enactment of this Act [Dec. 18, 2015], is constructed or undergoes a major construction upgrade shall be constructed to include a sensitive compartmented information facility.

“(b) NATIONAL SECURITY WAIVER.—The Secretary of State may waive the requirement under subsection (a) if the Secretary—

“(1) determines that such waiver is in the national security interest of the United States; and

“(2) submits a written justification for such waiver to the appropriate congressional committees not later than 90 days before exercising such waiver.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives];

“(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

“(3) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.”

INCLUSION OF SENSITIVE COMPARTMENTED INFORMATION FACILITIES IN UNITED STATES DIPLOMATIC FACILITIES IN THE RUSSIAN FEDERATION AND ADJACENT COUNTRIES

Pub. L. 113-293, title III, §314, Dec. 19, 2014, 128 Stat. 4002, provided that:

“(a) SENSITIVE COMPARTMENTED INFORMATION FACILITY REQUIREMENT.—Each United States diplomatic facility that, after the date of the enactment of this Act [Dec. 19, 2014], is constructed in, or undergoes a construction upgrade in, the Russian Federation, any country that shares a land border with the Russian Federation, or any country that is a former member of the Soviet Union shall be constructed to include a Sensitive Compartmented Information Facility.

“(b) NATIONAL SECURITY WAIVER.—The Secretary of State may waive the requirement under subsection (a) if the Secretary determines that such waiver is in the national security interest of the United States and submits a written justification to the appropriate congressional committees not later than 180 days before exercising such waiver.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives];

“(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

“(3) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.”

CAPITAL SECURITY COST SHARING

Pub. L. 109-364, div. A, title III, §357, Oct. 17, 2006, 120 Stat. 2163, as amended by Pub. L. 115-91, div. A, title X, §1051(i), Dec. 12, 2017, 131 Stat. 1564, provided that:

“(a) RECONCILIATION REQUIRED.—For each fiscal year, the Secretary of Defense shall reconcile (1) the estimate of overseas presence of the Secretary of Defense under subsection (b) for that fiscal year, with (2) the determination of the Secretary of State under section 604(e)(1) of the Secure Embassy Construction and Counterterrorism Act of 1999 [Pub. L. 106-113] (22 U.S.C. 4865 note) of the total overseas presence of the Department of Defense for that fiscal year.

“(b) ANNUAL ESTIMATE OF OVERSEAS PRESENCE.—Not later than February 1 of each year, the Secretary of Defense shall prepare an estimate of the total number of Department of Defense overseas personnel subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) during the fiscal year that begins on October 1 of that year.”

FINDINGS

Pub. L. 117-263, div. I, title XCIII, §9301(b), Dec. 23, 2022, 136 Stat. 3879, provided that: “Congress makes the following findings:

“(1) The Secure Embassy Construction and Counterterrorism Act of 1999 (title VI of division A of appendix G of Public Law 106-113 [113 Stat. 1501A-451; see Short Title of 1999 Amendment note set out under section 4801 of this title]) was a necessary response to bombings on August 7, 1998, at the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, that were destroyed by simultaneously exploding bombs. The resulting explosions killed 220 persons and injured more than 4,000 others. Twelve Americans and 40 Kenyan and Tanzanian employees of the United States Foreign Service were killed in the attacks.

“(2) Those bombings, followed by the expeditionary diplomatic efforts in Iraq and Afghanistan, dem-

onstrated the need to prioritize the security of United States posts and personnel abroad above other considerations.

“(3) Between 1999 and 2022, the risk calculus of the Department [of State] impacted the ability of United States diplomats around the world to advance the interests of the United States through access to local populations, leaders, and places.

“(4) America’s competitors and adversaries do not have the same restrictions that United States diplomats have, especially in critically important medium-threat and high-threat posts.

“(5) The Department’s 2021 Overseas Security Panel report states that—

“(A) the requirement for setback and collocation of diplomatic posts under paragraphs (2) and (3) of section 606(a) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)) has led to skyrocketing costs of new embassies and consulates; and

“(B) the locations of such posts have become less desirable, creating an extremely suboptimal nexus that further hinders United States diplomats who are willing to accept more risk in order to advance United States interests.”

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §602], Nov. 29, 1999, 113 Stat. 1536, 1501A–451, provided that: “Congress makes the following findings:

“(1) On August 7, 1998, the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were destroyed by simultaneously exploding bombs. The resulting explosions killed 220 persons and injured more than 4,000 others. Twelve Americans and 40 Kenyan and Tanzanian employees of the United States Foreign Service were killed in the attack.

“(2) The United States personnel in both Dar es Salaam and Nairobi showed leadership and personal courage in their response to the attacks. Despite the havoc wreaked upon the embassies, staff in both embassies provided rapid response in locating and rescuing victims, providing emergency assistance, and quickly restoring embassy operations during a crisis.

“(3) The bombs are believed to have been set by individuals associated with Osama bin Laden, leader of a known transnational terrorist organization. In February 1998, bin Laden issued a directive to his followers that called for attacks against United States interests anywhere in the world.

“(4) Threats continue to be made against United States diplomatic facilities.

“(5) Accountability Review Boards were convened following the bombings, as required by Public Law 99–399 [see Tables for classification], chaired by Admiral William J. Crowe, United States Navy (Ret.) (in this section referred to as the ‘Crowe panels’).

“(6) The conclusions of the Crowe panels were strikingly similar to those stated by the Commission chaired by Admiral Bobby Ray Inman, which issued an extensive embassy security report in 1985.

“(7) The Crowe panels issued a report setting out many problems with security at United States diplomatic facilities, in particular the following:

“(A) The United States Government has devoted inadequate resources to security against terrorist attacks.

“(B) The United States Government places too low a priority on security concerns.

“(8) The result has been a failure to take adequate steps to prevent tragedies such as the bombings in Kenya and Tanzania.

“(9) The Crowe panels found that there was an institutional failure on the part of the Department of State to recognize threats posed by transnational terrorism and vehicular bombs.

“(10) Responsibility for ensuring adequate resources for security programs is widely shared throughout the United States Government, including Congress. Unless the vulnerabilities identified by the Crowe panels are addressed in a sustained and financially realistic manner, the lives and safety of United States

employees in diplomatic facilities will continue to be at risk from further terrorist attacks.

“(11) Although service in the Foreign Service or other United States Government positions abroad can never be completely without risk, the United States Government must take all reasonable steps to minimize security risks.”

AUTHORIZATIONS OF APPROPRIATIONS

Pub. L. 117–263, div. I, title XCVIII, §9801, Dec. 23, 2022, 136 Stat. 3923, provided that: “For the purposes of calculating the costs of providing new United States diplomatic facilities in any fiscal year, in accordance with section 604(e) of the Secure Embassy Construction and Counterterrorism Act of 1999 [Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI]] (22 U.S.C. 4865 note), the Secretary of State, in consultation with the Director of the Office of Management and Budget, shall determine the annual program level and agency shares for such fiscal year in a manner that is proportional to the contribution of the Department of State for this purpose.”

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §604], Nov. 29, 1999, 113 Stat. 1536, 1501A–453, as amended by Pub. L. 107–228, div. A, title I, §111(a)(3)(B), Sept. 30, 2002, 116 Stat. 1356; Pub. L. 108–447, div. B, title VI, §629, Dec. 8, 2004, 118 Stat. 2920; Pub. L. 112–74, div. I, title VII, §7004(e), Dec. 23, 2011, 125 Stat. 1194; Pub. L. 114–323, title I, §111(b), Dec. 16, 2016, 130 Stat. 1910, provided that:

“(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated by this or any other Act, there are authorized to be appropriated for ‘Embassy Security, Construction and Maintenance’—

“(1) for fiscal year 2000, \$900,000,000;

“(2) for fiscal year 2001, \$900,000,000;

“(3) for fiscal year 2002, \$900,000,000;

“(4) for fiscal year 2003, \$1,000,000,000; and

“(5) for fiscal year 2004, \$900,000,000.

“(b) PURPOSES.—Funds made available under the ‘Embassy Security, Construction, and Maintenance’ account may be used only for the purposes of—

“(1) the acquisition of United States diplomatic facilities and, if necessary, any residences or other structures located in close physical proximity to such facilities, or

“(2) the provision of major security enhancements to United States diplomatic facilities, to the extent necessary to bring the United States Government into compliance with all requirements applicable to the security of United States diplomatic facilities, including the relevant requirements set forth in section 606 [22 U.S.C. 4865].

“(c) AVAILABILITY OF AUTHORIZATIONS.—Authorizations of appropriations under subsection (a) shall remain available until the appropriations are made.

“(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

“(e) CAPITAL SECURITY COST SHARING.—

“(1) AUTHORITY.—Notwithstanding any other provision of law, all agencies with personnel overseas subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) shall participate and provide funding in advance for their share of costs of providing, maintaining, repairing, and renovating safe, secure United States diplomatic facilities, without offsets, on the basis of the total overseas presence of each agency as determined annually by the Secretary of State in consultation with such agency. Amounts advanced by such agencies to the Department of State shall be credited to the Embassy Security, Construction and Maintenance account, and remain available until expended.

“(2) IMPLEMENTATION.—Implementation of this subsection shall be carried out in a manner that encourages right-sizing of each agency’s overseas presence. A project to construct a diplomatic facility of the United States may not include office space or other accommodations for an employee of a Federal depart-

ment or agency to the extent that the Secretary of State determines that such department or agency has not provided to the Department of State the full amount of funding required under paragraph (1), notwithstanding any authorization and appropriation of relevant funds by Congress.

“(3) EXCLUSION.—For purposes of this subsection ‘agency’ does not include the Marine Security Guard.”

OBLIGATIONS AND EXPENDITURES

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §605], Nov. 29, 1999, 113 Stat. 1536, 1501A–453, as amended by Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217, provided that:

“(a) REPORT AND PRIORITY OF OBLIGATIONS.—

“(1) REPORT.—Not later than February 1 of the year 2000 and each of the four subsequent years, the Secretary of State shall submit a classified report to the appropriate congressional committees identifying each diplomatic facility or each diplomatic or consular post composed of such facilities that is a priority for replacement or for any major security enhancement because of its vulnerability to terrorist attack (by reason of the terrorist threat and the current condition of the facility). The report shall list such facilities in groups of 20. The groups shall be ranked in order from most vulnerable to least vulnerable to such an attack.

“(2) PRIORITY ON USE OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated by section 604 [set out as a note above] for a particular project may be used only for those facilities which are listed in the first four groups described in paragraph (1).

“(B) EXCEPTION.—Funds authorized to be made available by section 604 may only be used for facilities which are not in the first 4 groups described in paragraph (1), if the Congress authorizes or appropriates funds for such a diplomatic facility or the Secretary of State notifies the appropriate congressional committees that such funds will be used for a facility in accordance with the procedures applicable to a reprogramming of funds under section 34(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706(a)).

“(b) PROHIBITION ON TRANSFER OF FUNDS.—None of the funds authorized to be appropriated by section 604 may be transferred to any other account.”

DEFINITIONS

For definitions of the terms “Secretary” and “appropriate congressional committees” used in this section and in section 1000(a)(7) [div. A, title VI, §605] of Pub. L. 106–113, set out as a note above, see section 1000(a)(7) [§3] of Pub. L. 106–113, set out as a note under section 2651 of this title.

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §603], Nov. 29, 1999, 113 Stat. 1536, 1501A–452, as amended by Pub. L. 117–263, div. I, title XCIII, §9301(d), Dec. 23, 2022, 136 Stat. 3880, provided that: “In this title [enacting this section, amending section 4831 of this title, and enacting provisions set out as notes above], the terms ‘United States diplomatic facility’ and ‘diplomatic facility’ mean any chancery, consulate, or other office that—

“(1) is considered by the Secretary of State to be diplomatic or consular premises, consistent with the Vienna Convention on Diplomatic Relations, done at Vienna April 18, 1961, and the Vienna Convention on Consular Relations, done at Vienna April 24, 1963, and was notified to the host government as such; or

“(2) is otherwise subject to a publicly available bilateral agreement with the host government (contained in the records of the United States Department of State) that recognizes the official status of the United States Government personnel present at the facility.”

Executive Documents

DELEGATION OF AUTHORITY

Memorandum of President of the United States, July 17, 2000, 65 F.R. 45511, provided:

Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and laws of the United States of America, I hereby delegate to the Secretary of Defense the responsibility of the President, under section 606 of the Foreign Relations Authorization Act for Fiscal Years 2000 and 2001 (Public Law 106–113) [22 U.S.C. 4865], to submit the required report to the Congress.

You are hereby authorized and directed to publish this delegation in the Federal Register.

WILLIAM J. CLINTON.

§ 4866. Security training for personnel assigned to a high risk, high threat post

(a) In general

Individuals assigned permanently to or who are in long-term temporary duty status as designated by the Secretary of State at a high risk, high threat post shall receive security training described in subsection (b) on a mandatory basis in order to prepare such individuals for living and working at such posts.

(b) Security training described

Security training referred to in subsection (a)—

(1) is training to improve basic knowledge and skills; and

(2) may include—

(A) an ability to recognize, avoid, and respond to potential terrorist situations, including a complex attack;

(B) conducting surveillance detection;

(C) providing emergency medical care;

(D) ability to detect the presence of improvised explosive devices;

(E) minimal firearms familiarization; and

(F) defensive driving maneuvers.

(c) Effective date

The requirements of this section shall take effect upon December 16, 2016.

(d) Definitions

In this section and section 4867 of this title:

(1) Complex attack

The term “complex attack” has the meaning given such term by the North Atlantic Treaty Organization, as follows: “An attack conducted by multiple hostile elements which employ at least two distinct classes of weapon systems (i.e., indirect fire and direct fire, improvised explosive devices, and surface to air fire).”

(2) High risk, high threat post

The term “high risk, high threat post” has the meaning given such term in section 4803 of this title.

(Pub. L. 99–399, title IV, §416, as added Pub. L. 114–323, title I, §121(a), Dec. 16, 2016, 130 Stat. 1913.)

§ 4867. Security management training for officials assigned to a high risk, high threat post

(a) In general

Officials described in subsection (c) who are assigned to a high risk, high threat post shall