

graph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the Director as to whether such proposed budgets are adequate.

(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such strategic plan.

(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(f) SUPERVISION OF DIRECTOR BY UNDER SECRETARY.—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

(g) ADMINISTRATIVE SUPPORT OF CENTER.—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director's responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

(h) DEFINITION.—In this section, the term "Major Range and Test Facility Base" means the test and evaluation facilities and resources that are designated by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facility Base.

(Added Pub. L. 107-314, div. A, title II, §231(a)(1), Dec. 2, 2002, 116 Stat. 2487; amended Pub. L. 108-136, div. A, title II, §212, Nov. 24, 2003, 117 Stat. 1416; Pub. L. 109-163, div. A, title II, §258(a), title IX, §902, Jan. 6, 2006, 119 Stat. 3185, 3397; Pub. L. 111-84, div. A, title II, §251, Oct. 28, 2009, 123 Stat. 2241.)

REFERENCES IN TEXT

Section 139(i) of this title, referred to in subsec. (c)(1)(A)(ii), was redesignated as section 139(j) of this title by Pub. L. 110-181, title II, §221, Jan. 28, 2008, 122 Stat. 37.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111-84 inserted par. (1) designation before "The Director", redesignated former par. (1) as subpar. (A) and former subpars. (A) and (B) as cl. (i) and (ii), respectively, of subpar. (A), added subpar. (B), redesignated former pars. (2) to (4) as subpars. (C) to (E), respectively, and added par. (2).

2006—Subsec. (b)(1). Pub. L. 109-163, §902(a), substituted "individuals who have substantial experience

in the field of test and evaluation." for "commissioned officers of the armed forces on active duty or from among senior civilian officers and employees of the Department of Defense."

Subsec. (b)(2). Pub. L. 109-163, §902(b), substituted "individuals" for "senior civilian officers and employees of the Department of Defense".

Subsec. (h). Pub. L. 109-163, §258(a), substituted "Secretary of Defense" for "Director of Operational Test and Evaluation".

2003—Subsec. (b)(1). Pub. L. 108-136, §212(a), substituted "on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director" for "on active duty. The Director" and inserted at end "A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general."

Subsec. (c)(1)(B). Pub. L. 108-136, §212(b)(1), inserted ", other than budgets and expenditures for activities described in section 139(i) of this title" after "Department of Defense".

Subsec. (e)(1). Pub. L. 108-136, §212(b)(2), struck out "the Director of Operational Test and Evaluation," after "each military department" and substituted "or Defense Agency head's" for "Director's, or head's".

ADMINISTRATION OF PROGRAMS TO BEGIN AFTER FIRST STRATEGIC PLAN

Pub. L. 107-314, div. A, title II, §231(b), (c), Dec. 2, 2002, 116 Stat. 2489, directed that the first strategic plan required to be completed under subsec. (d)(1) of this section was to be completed not later than six months after Dec. 2, 2002, and that the duty of the Director of the Department of Defense Test Resource Management Center to administer the programs specified in subsec. (c)(4) of this section would take effect upon the beginning of the first fiscal year that began after the report on the first strategic plan was transmitted to committees of Congress.

§ 197. Defense Logistics Agency: fees charged for logistics information

(a) AUTHORITY.—The Secretary of Defense may charge fees for providing information in the Federal Logistics Information System through Defense Logistics Information Services to a department or agency of the executive branch outside the Department of Defense, or to a State, a political subdivision of a State, or any person.

(b) AMOUNT.—The fee or fees prescribed under subsection (a) shall be such amount or amounts as the Secretary of Defense determines appropriate for recovering the costs of providing information as described in such subsection.

(c) RETENTION OF FEES.—Fees collected under this section shall be credited to the appropriation available for Defense Logistics Information Services for the fiscal year in which collected, shall be merged with other sums in such appropriation, and shall be available for the same purposes and period as the appropriation with which merged.

(d) DEFENSE LOGISTICS INFORMATION SERVICES DEFINED.—In this section, the term "Defense Logistics Information Services" means the organization within the Defense Logistics Agency that is known as Defense Logistics Information Services.

(Added Pub. L. 108-375, div. A, title X, §1010(a), Oct. 28, 2004, 118 Stat. 2038.)

SUBCHAPTER II—MISCELLANEOUS
DEFENSE AGENCY MATTERS

Sec.	
201.	Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance.
[202.	Repealed.]
203.	Director of Missile Defense Agency.

AMENDMENTS

2002—Pub. L. 107–314, div. A, title II, § 225(b)(1)(B)(ii), Dec. 2, 2002, 116 Stat. 2486, substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization” in item 203.

1997—Pub. L. 105–107, title V, § 503(d)(1), Nov. 20, 1997, 111 Stat. 2262, struck out item 202 “Unauthorized use of Defense Intelligence Agency name, initials, or seal”.

Pub. L. 105–85, div. A, title II, § 235(b), Nov. 18, 1997, 111 Stat. 1665, added item 203.

1996—Pub. L. 104–201, div. A, title XI, § 1103(b), Sept. 23, 1996, 110 Stat. 2677, substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in item 201.

1991—Pub. L. 102–190, div. A, title IX, § 922(b), Dec. 5, 1991, 105 Stat. 1453, added item 201 and redesignated former item 201 as 202.

1986—Pub. L. 99–433, title III, § 301(a)(2), Oct. 1, 1986, 100 Stat. 1022, added subchapter heading and analysis of sections for subchapter II.

§ 201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

(b) CONCURRENCE IN APPOINTMENT.—(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 (50 U.S.C. 403–6(b)).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) PERFORMANCE EVALUATIONS.—(1) The Director of National Intelligence shall provide annually to the Secretary of Defense, for the Secretary’s consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Intelligence Program.

(2) The positions referred to in paragraph (1) are the following:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(Added Pub. L. 102–190, div. A, title IX, § 922(a)(2), Dec. 5, 1991, 105 Stat. 1453; amended Pub. L. 104–201, div. A, title XI, § 1103(a), Sept. 23, 1996, 110 Stat. 2676; Pub. L. 108–136, div. A, title IX, § 921(d)(4), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110–181, div. A, title IX, § 931(a)(4), (5), (c)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, § 932(a)(3)–(5), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

PRIOR PROVISIONS

A prior section 201 was renumbered section 202 of this title and subsequently repealed.

AMENDMENTS

2009—Subsecs. (a), (b)(1), (c)(1). Pub. L. 111–84 repealed Pub. L. 110–417, § 932(a)(3)–(5). See 2008 Amendment notes below.

2008—Subsec. (a). Pub. L. 110–181, § 931(a)(4), and Pub. L. 110–417, § 932(a)(3), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, § 932(a)(3), was repealed by Pub. L. 111–84.

Subsec. (b)(1). Pub. L. 110–417, § 932(a)(4), which directed substitution of “Director of National Intelligence” for “Director of Central Intelligence”, could not be executed because of the intervening amendment by Pub. L. 110–181, § 931(c)(2)(A), and was repealed by Pub. L. 111–84.

Pub. L. 110–181, § 931(c)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director’s concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.”

Subsec. (c)(1). Pub. L. 110–181, § 931(c)(2)(B), substituted “National Intelligence Program” for “National Foreign Intelligence Program”.

Pub. L. 110–181, § 931(a)(5), and Pub. L. 110–417, § 932(a)(5), amended par. (1) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, § 932(a)(5), was repealed by Pub. L. 111–84.

2003—Subsecs. (b)(2)(C), (c)(2)(C). Pub. L. 108–136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1996—Pub. L. 104–201 substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in section catchline and amended text generally. Prior to amendment, text read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency or Director of the National Security Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.