

## EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of this title.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out in an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of this title.

## APPLICABILITY OF APPOINTMENT REQUIREMENTS

Section 813(b) of Pub. L. 104-293 provided that: “The requirement established by section 20 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 403t], as added by subsection (a), for the appointment by the President, by and with the advice and consent of the Senate, of an individual to the position of General Counsel of the Central Intelligence Agency shall apply as follows:

“(1) To any vacancy in such position that occurs after the date of the enactment of this Act [Oct. 11, 1996].

“(2) To the incumbent serving in such position on the date of the enactment of this Act as of the date that is six months after such date of enactment, if such incumbent has served in such position continuously between such date of enactment and the date that is six months after such date of enactment.”

**§ 403u. Central services program****(a) In general**

The Director may carry out a program under which elements of the Agency provide items and services on a reimbursable basis to other elements of the Agency, nonappropriated fund entities or instrumentalities associated or affiliated with the Agency, and other Government agencies. The Director shall carry out the program in accordance with the provisions of this section.

**(b) Participation of Agency elements**

(1) In order to carry out the program, the Director shall—

(A) designate the elements of the Agency that are to provide items or services under the program (in this section referred to as “central service providers”);

(B) specify the items or services to be provided under the program by such providers; and

(C) assign to such providers for purposes of the program such inventories, equipment, and other assets (including equipment on order) as the Director determines necessary to permit such providers to provide items or services under the program.

(2) The designation of elements and the specification of items and services under paragraph (1) shall be subject to the approval of the Director of the Office of Management and Budget.

**(c) Central Services Working Capital Fund**

(1) There is established a fund to be known as the Central Services Working Capital Fund (in this section referred to as the “Fund”). The purpose of the Fund is to provide sums for activities under the program.

(2) There shall be deposited in the Fund the following:

(A) Amounts appropriated to the Fund.

(B) Amounts credited to the Fund from payments received by central service providers under subsection (e) of this section.

(C) Fees imposed and collected under subsection (f)(1) of this section.

(D) Amounts received in payment for loss or damage to equipment or property of a central service provider as a result of activities under the program.

(E) Other receipts from the sale or exchange of equipment or property of a central service provider as a result of activities under the program.

(F) Receipts from individuals in reimbursement for utility services and meals provided under the program.

(G) Receipts from individuals for the rental of property and equipment under the program.

(H) Such other amounts as the Director is authorized to deposit in or transfer to the Fund.

(3) Amounts in the Fund shall be available, without fiscal year limitation, for the following purposes:

(A) To pay the costs of providing items or services under the program.

(B) To pay the costs of carrying out activities under subsection (f)(2) of this section.

**(d) Limitation on amount of orders**

The total value of all orders for items or services to be provided under the program in any fiscal year may not exceed an amount specified in advance by the Director of the Office of Management and Budget.

**(e) Payment for items and services**

(1) A Government agency provided items or services under the program shall pay the central service provider concerned for such items or services an amount equal to the costs incurred by the provider in providing such items or services plus any fee imposed under subsection (f) of this section. In calculating such costs, the Director shall take into account personnel costs (including costs associated with salaries, annual leave, and workers’ compensation), plant and equipment costs (including depreciation of plant and equipment other than structures owned by the Agency), operation and maintenance expenses, amortized costs, and other expenses.

(2) Payment for items or services under paragraph (1) may take the form of an advanced payment by an agency from appropriations available to such agency for the procurement of such items or services.

**(f) Fees**

(1) The Director may permit a central service provider to impose and collect a fee with respect to the provision of an item or service under the program. The amount of the fee may not exceed an amount equal to four percent of the payment received by the provider for the item or service.

(2) The Director may obligate and expend amounts in the Fund that are attributable to the fees imposed and collected under paragraph (1) to acquire equipment or systems for, or to improve the equipment or systems of, central service providers and any elements of the Agency that are not designated for participation in the program in order to facilitate the designa-

tion of such elements for future participation in the program.

**(g) Termination**

(1) Subject to paragraph (2), the Director of the Central Intelligence Agency and the Director of the Office of Management and Budget, acting jointly—

(A) may terminate the program under this section and the Fund at any time; and

(B) upon such termination, shall provide for the disposition of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the program or the Fund.

(2) The Director of the Central Intelligence Agency and the Director of the Office of Management and Budget may not undertake any action under paragraph (1) until 60 days after the date on which the Directors jointly submit notice of such action to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(June 20, 1949, ch. 227, §21, as added Pub. L. 105-107, title IV, §403(a), Nov. 20, 1997, 111 Stat. 2258; amended Pub. L. 106-120, title IV, §401, Dec. 3, 1999, 113 Stat. 1615; Pub. L. 106-567, title IV, §401, Dec. 27, 2000, 114 Stat. 2847; Pub. L. 107-108, title IV, §401, Dec. 28, 2001, 115 Stat. 1403; Pub. L. 107-306, title VIII, §841(e), Nov. 27, 2002, 116 Stat. 2432; Pub. L. 108-177, title IV, §403, Dec. 13, 2003, 117 Stat. 2632; Pub. L. 108-458, title I, §1071(b)(3)(D), (E), Dec. 17, 2004, 118 Stat. 3691.)

CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

AMENDMENTS

2004—Subsec. (g)(1). Pub. L. 108-458, §1071(b)(3)(D), substituted “Director of the Central Intelligence Agency” for “Director of Central Intelligence” in introductory provisions.

Subsec. (g)(2). Pub. L. 108-458, §1071(b)(3)(E), substituted “Director of the Central Intelligence Agency” for “Director of Central Intelligence”.

2003—Subsec. (f)(2). Pub. L. 108-177 substituted “The Director” for “(A) Subject to subparagraph (B), the Director” and struck out subpar. (B) which read as follows: “The Director may not expend amounts in the Fund for purposes specified in subparagraph (A) in fiscal year 1998, 1999, or 2000 unless the Director—

“(i) secures the prior approval of the Director of the Office of Management and Budget; and

“(ii) submits notice of the proposed expenditure to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”

2002—Subsecs. (g), (h). Pub. L. 107-306 redesignated subsec. (h) as (g) and struck out former subsec. (g), which required annual audit of program activities, set forth provisions relating to form, content, and procedures, and required submission of copies to the Director of the Office of Management and Budget, the Director of Central Intelligence, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

2001—Subsec. (g)(1). Pub. L. 107-108, §401(a), substituted “January 31” for “December 31” and “complete an audit” for “conduct an audit”.

Subsec. (h). Pub. L. 107-108, §401(b), redesignated pars. (2) and (3) as (1) and (2), respectively, substituted “paragraph (2)” for “paragraph (3)” in par. (1) and “paragraph (1)” for “paragraph (2)” in par. (2), and struck out former par. (1) which read as follows: “The authority of the Director to carry out the program under this section shall terminate on March 31, 2002.”

2000—Subsec. (c)(2)(F) to (H). Pub. L. 106-567, §401(a), added subpars. (F) and (G) and redesignated former subpar. (F) as (H).

Subsec. (e)(1). Pub. L. 106-567, §401(b), in second sentence, inserted “other than structures owned by the Agency” after “depreciation of plant and equipment”.

Subsec. (g)(2). Pub. L. 106-567, §401(c), substituted “financial statements to be prepared with respect to the program. Office of Management and Budget guidance shall also determine the procedures for conducting annual audits under paragraph (1).” for “annual audits under paragraph (1)”.

1999—Subsec. (a). Pub. L. 106-120, §401(a), substituted “, nonappropriated fund entities or instrumentalities associated or affiliated with the Agency, and other” for “and to other”.

Subsec. (c)(2)(D). Pub. L. 106-120, §401(b)(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “Amounts collected in payment for loss or damage to equipment or other property of a central service provider as a result of activities under the program.”

Subsec. (c)(2)(E), (F). Pub. L. 106-120, §401(b)(2), (3), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (f)(2)(A). Pub. L. 106-120, §401(c), inserted “central service providers and any” before “elements of the Agency”.

Subsec. (h)(1). Pub. L. 106-120, §401(d), substituted “2002” for “2000”.

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AVAILABILITY OF FUNDS CREDITED TO CENTRAL SERVICES WORKING CAPITAL FUND

Pub. L. 112-74, div. A, title VIII, §8032, Dec. 23, 2011, 125 Stat. 812, provided in part: “That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 112-10, div. A, title VIII, §8033, Apr. 15, 2011, 125 Stat. 64.

Pub. L. 111-118, div. A, title VIII, §8035, Dec. 19, 2009, 123 Stat. 3436.

Pub. L. 110-329, div. C, title VIII, §8035, Sept. 30, 2008, 122 Stat. 3629.

Pub. L. 110-116, div. A, title VIII, §8035, Nov. 13, 2007, 121 Stat. 1322.

Pub. L. 109-289, div. A, title VIII, §8033, Sept. 29, 2006, 120 Stat. 1281.

Pub. L. 109-148, div. A, title VIII, §8038, Dec. 30, 2005, 119 Stat. 2707.

Pub. L. 108-287, title VIII, §8042, Aug. 5, 2004, 118 Stat. 979.

Pub. L. 108-87, title VIII, §8042, Sept. 30, 2003, 117 Stat. 1081.

Pub. L. 107-248, title VIII, §8042, Oct. 23, 2002, 116 Stat. 1546.

Pub. L. 107-117, div. A, title VIII, §8045, Jan. 10, 2002, 115 Stat. 2257.

Pub. L. 106-259, title VIII, §8045, Aug. 9, 2000, 114 Stat. 684.

Pub. L. 106-79, title VIII, §8048, Oct. 25, 1999, 113 Stat. 1241.

Pub. L. 105-262, title VIII, §8048, Oct. 17, 1998, 112 Stat. 2307.

#### § 403v. Detail of employees

The Director may—

(1) detail any personnel of the Agency on a reimbursable basis indefinitely to the National Reconnaissance Office without regard to any limitation under law on the duration of details of Federal Government personnel; and

(2) hire personnel for the purpose of any detail under paragraph (1).

(June 20, 1949, ch. 227, §22, as added Pub. L. 106-567, title IV, §404, Dec. 27, 2000, 114 Stat. 2848.)

#### CODIFICATION

Section was enacted as part of the Central Intelligence Agency Act of 1949, and not as part of the National Security Act of 1947 which comprises this chapter.

#### § 403w. Intelligence operations and cover enhancement authority

##### (a) Definitions

In this section—

(1) the term “designated employee” means an employee designated by the Director of the Central Intelligence Agency under subsection (b) of this section; and

(2) the term “Federal retirement system” includes the Central Intelligence Agency Retirement and Disability System, and the Federal Employees’ Retirement System (including the Thrift Savings Plan).

##### (b) In general

###### (1) Authority

Notwithstanding any other provision of law, the Director of the Central Intelligence Agency may exercise the authorities under this section in order to—

- (A) protect from unauthorized disclosure—
- (i) intelligence operations;
  - (ii) the identities of undercover intelligence officers;
  - (iii) intelligence sources and methods; or
  - (iv) intelligence cover mechanisms; or

(B) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency.

###### (2) Designation of employees

The Director of the Central Intelligence Agency may designate any employee of the Agency who is under nonofficial cover to be an employee to whom this section applies. Such designation may be made with respect to any or all authorities exercised under this section.

##### (c) Compensation

The Director of the Central Intelligence Agency may pay a designated employee salary, allowances, and other benefits in an amount and in a manner consistent with the nonofficial cover of

that employee, without regard to any limitation that is otherwise applicable to a Federal employee. A designated employee may accept, utilize, and, to the extent authorized by regulations prescribed under subsection (i) of this section, retain any salary, allowances, and other benefits provided under this section.

##### (d) Retirement benefits

###### (1) In general

The Director of the Central Intelligence Agency may establish and administer a non-official cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A designated employee may not participate in the retirement system established under this paragraph and another Federal retirement system at the same time.

###### (2) Conversion to other Federal retirement system

###### (A) In general

A designated employee participating in the retirement system established under paragraph (1) may convert to coverage under the Federal retirement system which would otherwise apply to that employee at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee’s participation in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (i) intelligence operations;
- (ii) the identities of undercover intelligence officers;
- (iii) intelligence sources and methods; or
- (iv) intelligence cover mechanisms.

###### (B) Conversion treatment

Upon a conversion under this paragraph—

(i) all periods of service under the retirement system established under this subsection shall be deemed periods of creditable service under the applicable Federal retirement system;

(ii) the Director of the Central Intelligence Agency shall transmit an amount for deposit in any applicable fund of that Federal retirement system that—

(I) is necessary to cover all employee and agency contributions including—

(aa) interest as determined by the head of the agency administering the Federal retirement system into which the employee is converting; or

(bb) in the case of an employee converting into the Federal Employees’ Retirement System, interest as determined under section 8334(e) of title 5; and

(II) ensures that such conversion does not result in any unfunded liability to that fund; and

(iii) in the case of a designated employee who participated in an employee invest-