

§ 5961a. Requirement for on-site managers**(a) On-site manager requirement**

Before obligating any defense nuclear nonproliferation funds for a project described in subsection (b) of this section, the Secretary of Energy shall appoint one on-site manager for that project. The manager shall be appointed from among employees of the Federal Government.

(b) Projects covered

Subsection (a) of this section applies to a project—

- (1) to be located in a state of the former Soviet Union;
- (2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and
- (3) with respect to which the total contribution by the Department of Energy is expected to exceed \$50,000,000.

(c) Duties of on-site manager

The on-site manager appointed under subsection (a) of this section shall—

- (1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;
- (2) establish a schedule for completing those steps or activities;
- (3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and
- (4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Energy to resume United States participation.

(d) Authority to manage more than one project

(1) Subject to paragraph (2), an employee of the Federal Government may serve as on-site manager for more than one project, including projects at different locations.

(2) If such an employee serves as on-site manager for more than one project in a fiscal year, the total cost of the projects for that fiscal year may not exceed \$150,000,000.

(e) Steps or activities

Steps or activities referred to in subsection (c)(1) of this section are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

- (1) Identification and acquisition of permits (as defined in subsection (g) of this section).
- (2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.
- (3) Timely provision of financial, personnel, management, transportation, and other resources.

(f) Notification to Congress

In any case in which the Secretary of Energy directs an on-site manager to resume United States participation in a project under subsection (c)(4) of this section, the Secretary shall concurrently notify Congress of such direction.

(g) Permit defined

In this section, the term “permit” means any local or national permit for development, general construction, environmental, land use, or other purposes that is required in the state of the former Soviet Union in which the project is being or is proposed to be carried out.

(h) Effective date

This section shall take effect six months after November 24, 2003.

(Pub. L. 108–136, div. C, title XXXI, §3125, Nov. 24, 2003, 117 Stat. 1748.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Cooperative Threat Reduction Act of 1993 which comprises this chapter.

§ 5962. Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities**(a) Certification on use of facilities being constructed**

Not later than the first Monday of February each year, the Secretary of Defense shall submit to the congressional defense committees a certification for each facility for a Cooperative Threat Reduction project or activity for which construction occurred during the preceding fiscal year on matters as follows:

- (1) Whether or not such facility will be used for its intended purpose by the government of the state of the former Soviet Union in which the facility is constructed.
- (2) Whether or not the government of such state remains committed to the use of such facility for its intended purpose.
- (3) Whether those actions needed to ensure security at the facility, including secure transportation of any materials, substances, or weapons to, from, or within the facility, have been taken.

(b) Applicability

Subsection (a) of this section shall apply to—

- (1) any facility the construction of which commences on or after November 24, 2003; and
- (2) any facility the construction of which is ongoing as of November 24, 2003.

(Pub. L. 108–136, div. A, title XIII, §1307, Nov. 24, 2003, 117 Stat. 1661.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Cooperative Threat Reduction Act of 1993 which comprises this chapter.

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 108–136, Nov. 24, 2003, 117 Stat. 1406. See note under section 101 of Title 10, Armed Forces.

§ 5963. Authority to use Cooperative Threat Reduction funds outside the former Soviet Union**(a) Authority**

Subject to the provisions of this section, the Secretary of Defense may obligate and expend

Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines each of the following:

- (1) That such project or activity will—
 - (A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or
 - (ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and
 - (B) be completed in a short period of time.

- (2) That the Department of Defense is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) Scope of authority

The authority in subsection (a) of this section to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c) Limitation on availability of funds

- (1) The Secretary of Defense may not obligate funds for a project or activity under the authority in subsection (a) of this section until the Secretary of Defense, with the concurrence of the Secretary of State, makes each determination specified in that subsection with respect to such project or activity.

- (2) Not later than 10 days after obligating funds under the authority in subsection (a) of this section for a project or activity, the Secretary of Defense and the Secretary of State shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

- (A) a justification for such determinations; and
- (B) a description of the scope and duration of such project or activity.

(d) Additional limitations and requirements

Except as otherwise provided in subsections (a) and (b) of this section, the exercise of the authority in subsection (a) of this section shall be subject to any requirement or limitation under another provision of law as follows:

- (1) Any requirement for prior notice or other reports to Congress on the use of Cooperative Threat Reduction funds or on Cooperative Threat Reduction projects or activities.
- (2) Any limitation on the obligation or expenditure of Cooperative Threat Reduction funds.
- (3) Any limitation on Cooperative Threat Reduction projects or activities.

(Pub. L. 108-136, div. A, title XIII, §1308, Nov. 24, 2003, 117 Stat. 1662; Pub. L. 110-53, title XVIII, §1811(4), Aug. 3, 2007, 121 Stat. 493; Pub. L. 110-181, div. A, title XIII, §1305, Jan. 28, 2008, 122 Stat. 413.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Cooperative Threat Reduction Act of 1993 which comprises this chapter.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181, §1305(1), substituted “Subject to the provisions of this section, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines each of the following:” for “Subject to the provisions of this section, the Secretary of Defense may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines each of the following:”

Subsec. (c). Pub. L. 110-181, §1305(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) required the Secretary of Defense, with the concurrence of the Secretary of State, to make certain determinations before obligating funds under subsec. (a).

Pub. L. 110-181, §1305(2), redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “The amount that may be obligated in a fiscal year under the authority in subsection (a) of this section may not exceed \$50,000,000.”

Subsecs. (d), (e). Pub. L. 110-181, §1305(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

2007—Subsec. (a). Pub. L. 110-53, §1811(4)(A), in introductory provisions, substituted “the Secretary of Defense may” for “the President may” and “if the Secretary of Defense, with the concurrence of the Secretary of State,” for “if the President”.

Subsec. (d)(1). Pub. L. 110-53, §1811(4)(B), substituted “The Secretary of Defense may not” for “The President may not” and “until the Secretary of Defense, with the concurrence of the Secretary of State,” for “until the President”.

Subsec. (d)(2). Pub. L. 110-53, §1811(4)(C), in introductory provisions, substituted “Not later than 15 days prior to” for “Not later than 10 days after” and “the Secretary of Defense shall notify the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate” for “the President shall notify Congress”.

Subsec. (d)(3). Pub. L. 110-53, §1811(4)(D), added par. (3).

§ 5964. Metrics for the Cooperative Threat Reduction Program

(a) Metrics required

The Secretary of Defense shall develop and implement metrics to measure the impact and effectiveness of activities of the Cooperative Threat Reduction Program of the Department of Defense to address threats arising from the proliferation of chemical, nuclear, and biological weapons and weapons-related materials, technologies, and expertise.

(b) Secretary of Defense report on metrics

Not later than 270 days after October 28, 2009, the Secretary of Defense shall submit to the appropriate congressional committees a report describing the metrics developed and implemented under subsection (a).