

recyclable materials, or property of a central service provider.” for “from the sale or exchange of equipment or property of a central service provider”.

Subsec. (c)(3)(B). Pub. L. 112-277, § 401(2)(B), substituted “subsections (b)(1)(D) and (f)(2)” for “subsection (f)(2)”.

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”.

#### 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.

#### 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 nonofficial 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 investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, the Director of the Central Intelligence Agency may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

**(C) Transmitted amounts****(i) In general**

Amounts described under subparagraph (B)(ii) shall be paid from the fund or appropriation used to pay the designated employee.

**(ii) Offset**

The Director of the Central Intelligence Agency may use amounts contributed by the designated employee to a retirement system established under paragraph (1) to offset amounts paid under clause (i).

**(D) Records**

The Director of the Central Intelligence Agency shall transmit all necessary records relating to a designated employee who converts to a Federal retirement system under this paragraph (including records relating to periods of service which are deemed to be periods of creditable service under subparagraph (B)) to the head of the agency administering that Federal retirement system.

**(e) Health insurance benefits****(1) In general**

The Director of the Central Intelligence Agency may establish and administer a nonofficial cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the health

insurance program established under this paragraph and the program under chapter 89 of title 5 at the same time.

**(2) Conversion to Federal employees health benefits program**

**(A) In general**

A designated employee participating in the health insurance program established under paragraph (1) may convert to coverage under the program under chapter 89 of title 5 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 health insurance program 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) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5;
- (ii) any requirement of prior enrollment in a health benefits plan under chapter 89 of that title for continuation of coverage purposes shall not apply;
- (iii) the employee shall be deemed to have had coverage under chapter 89 of that title from the first opportunity to enroll for purposes of continuing coverage as an annuitant; and
- (iv) the Director of the Central Intelligence Agency shall transmit an amount for deposit in the Employees' Health Benefits Fund that is necessary to cover any costs of such conversion.

**(C) Transmitted amounts**

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

**(f) Life insurance benefits**

**(1) In general**

The Director of the Central Intelligence Agency may establish and administer a non-official cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the life insurance program established under this paragraph and the program under chapter 87 of title 5 at the same time.

**(2) Conversion to Federal employees group life insurance program**

**(A) In general**

A designated employee participating in the life insurance program established under paragraph (1) may convert to coverage under the program under chapter 87 of title 5 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 life insurance program 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) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5;
- (ii) any requirement of prior enrollment in a life insurance program under chapter 87 of that title for continuation of coverage purposes shall not apply;
- (iii) the employee shall be deemed to have had coverage under chapter 87 of that title for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage as an annuitant; and
- (iv) the Director of the Central Intelligence Agency shall transmit an amount for deposit in the Employees' Life Insurance Fund that is necessary to cover any costs of such conversion.

**(C) Transmitted amounts**

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

**(g) Exemption from certain requirements**

The Director of the Central Intelligence Agency may exempt a designated employee from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Director of the Central Intelligence Agency determines—

- (1) would be inconsistent with the nonofficial cover of that employee; and
- (2) could expose that employee to detection as a Federal employee.

**(h) Taxation and social security**

**(1) In general**

Notwithstanding any other provision of law, a designated employee—

- (A) shall file a Federal or State tax return as if that employee is not a Federal employee and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that employee was not a Federal employee, if the Director of the Central Intelligence Agency determines that taking any action under this paragraph is necessary to—

- (i) protect from unauthorized disclosure—
  - (I) intelligence operations;
  - (II) the identities of undercover intelligence officers;

- (III) intelligence sources and methods; or
- (IV) intelligence cover mechanisms; and

(ii) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency; and

(B) shall receive social security benefits based on the social security contributions made.

**(2) Internal Revenue Service review**

The Director of the Central Intelligence Agency shall establish procedures to carry out this subsection. The procedures shall be subject to periodic review by the Internal Revenue Service.

**(i) Regulations**

The Director of the Central Intelligence Agency shall prescribe regulations to carry out this section. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee designated under this section may retain does not significantly exceed, except to the extent determined by the Director of the Central Intelligence Agency to be necessary to exercise the authority in subsection (b) of this section, the combination of salary, allowances, and benefits otherwise received by Federal employees not designated under this section.

**(j) Finality of decisions**

Any determinations authorized by this section to be made by the Director of the Central Intelligence Agency or the Director's designee shall be final and conclusive and shall not be subject to review by any court.

**(k) Subsequently enacted laws**

No law enacted after the effective date of this section shall affect the authorities and provisions of this section unless such law specifically refers to this section.

(June 20, 1949, ch. 227, §23, as added Pub. L. 108-487, title IV, §402, Dec. 23, 2004, 118 Stat. 3946.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (k), is the date of enactment of Pub. L. 108-487, which was approved December 23, 2004. See section 801 of Pub. L. 108-487, set out as an Effective Date of 2004 Amendments note under section 2656f of Title 22, Foreign Relations and Intercourse.

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.

**§ 403x. Separation pay program for voluntary separation from service**

**(a) Definitions**

For purposes of this section—

(1) the term “Director” means the Director of the Central Intelligence Agency;<sup>1</sup>

<sup>1</sup> So in original. Probably should be followed by “and”.

(2) the term “employee” means an employee of the Central Intelligence Agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5 or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

**(b) Establishment of program**

In order to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function, or other similar action, the Director may establish a program under which employees may be offered separation pay to separate from service voluntarily (whether by retirement or resignation). An employee who receives separation pay under such program may not be reemployed by the Central Intelligence Agency for the 12-month period beginning on the effective date of the employee's separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the Central Intelligence Agency. If the employment is with an Executive agency (as defined by section 105 of title 5), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

**(c) Bar on certain employment**

**(1) Bar**

An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the Central Intelligence Agency; or

(B) participate in any manner in the award, modification, extension, or perform-