

(iii) the functions of the Overseas Security Advisory Council.

(c) This order shall be implemented consistent with applicable law and appropriate protections for privacy and civil liberties, and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Reference to the National Security Staff deemed to be a reference to the National Security Council Staff, see Ex. Ord. No. 13657, set out as a note under section 3021 of Title 50, War and National Defense.]

PART B—INSPECTOR GENERAL

§ 371. Repealed. Pub. L. 108-7, div. L, § 104(c)(1), Feb. 20, 2003, 117 Stat. 531

Section, Pub. L. 107-296, title VIII, § 811, Nov. 25, 2002, 116 Stat. 2221, related to authority of Secretary of Homeland Security with respect to Inspector General.

PART C—UNITED STATES SECRET SERVICE

§ 381. Functions transferred

In accordance with subchapter XII, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

(Pub. L. 107-296, title VIII, § 821, Nov. 25, 2002, 116 Stat. 2224.)

§ 382. Use of proceeds derived from criminal investigations

(a) United States Secret Service use of proceeds derived from criminal investigations

During fiscal year 2014 and thereafter, with respect to any undercover investigative operation of the United States Secret Service (hereafter referred to in this section as the “Secret Service”) that is necessary for the detection and prosecution of crimes against the United States—

(1) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to sections 1341 and 3324 of title 31, section 8141 of title 40, sections 6301(a), (b)(1) to (3) and 6306(a) of title 41, and section 3901 and chapter 45 of title 41;

(2) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used to establish or to acquire proprietary corporations or business entities as part of such undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31;

(3) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years and the proceeds from such

undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 and section 3302 of title 31; and

(4) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31.

(b) Written certification

The authority set forth in subsection (a) may be exercised only upon the written certification of the Director of the Secret Service or designee that any action authorized by any paragraph of such subsection is necessary for the conduct of an undercover investigative operation. Such certification shall continue in effect for the duration of such operation, without regard to fiscal years.

(c) Deposit of proceeds in Treasury

As soon as practicable after the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) Reporting and deposit of proceeds upon disposition of certain business entities

If a corporation or business entity established or acquired as part of an undercover investigative operation under paragraph (2) of subsection (a) with a net value of over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Secret Service, as much in advance as the Director or designee determines is practicable, shall report the circumstance to the Secretary of Homeland Security. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) Financial audits and reports

(1) The Secret Service shall conduct detailed financial audits of closed undercover investigative operations for which a written certification was made pursuant to subsection (b) on a quarterly basis and shall report the results of the audits in writing to the Secretary of Homeland Security.

(2) The Secretary of Homeland Security shall annually submit to the Committees on Appropriations of the Senate and House of Representatives, at the time that the President’s budget is submitted under section 1105(a) of title 31, a summary of such audits.

(Pub. L. 109-295, title V, § 532, Oct. 4, 2006, 120 Stat. 1384; Pub. L. 110-161, div. E, title V, § 527, Dec. 26, 2007, 121 Stat. 2074; Pub. L. 110-329, div. D, title V, § 520, Sept. 30, 2008, 122 Stat. 3684; Pub. L. 111-83, title V, § 519, Oct. 28, 2009, 123 Stat. 2171; Pub. L. 112-10, div. B, title VI, § 1652, Apr. 15, 2011, 125 Stat. 147; Pub. L. 112-74, div. D, title V, § 518, Dec. 23, 2011, 125 Stat. 972; Pub. L. 113-6, div. D, title V, § 518, Mar. 26, 2013, 127 Stat. 369; Pub. L. 113-76, div. F, title V, § 518, Jan. 17, 2014, 128 Stat. 272.)

CODIFICATION

In subsec. (a)(1), “sections 6301(a), (b)(1) to (3) and 6306(a) of title 41,” substituted for “sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22),” and “section 3901 and chapter 45 of title 41” substituted for “sections 304(a) and 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a) and 255)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was enacted as part of the appropriation act cited in the credit to this section, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-76 substituted “2014 and thereafter” for “2013” in introductory provisions.

2013—Subsec. (a). Pub. L. 113-6 substituted “2013” for “2012” in introductory provisions.

2011—Subsec. (a). Pub. L. 112-74 substituted “2012” for “2011” in introductory provisions.

Pub. L. 112-10 substituted “2011” for “2010” in introductory provisions.

2009—Subsec. (a). Pub. L. 111-83 substituted “2010” for “2009” in introductory provisions.

2008—Subsec. (a). Pub. L. 110-329 substituted “2009” for “2008” in introductory provisions.

2007—Subsec. (a). Pub. L. 110-161 substituted “2008” for “2007” in introductory provisions.

PART D—ACQUISITIONS

§ 391. Research and development projects**(a) Authority**

Until September 30, 2014, and subject to subsection (d), the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1) In general

When the Secretary carries out basic, applied, and advanced research and development projects, including the expenditure of funds for such projects, the Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10 (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (b) of this section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) Prototype projects

The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) Procurement of temporary and intermittent services

The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

(c) Additional requirements**(1) In general**

The authority of the Secretary under this section shall terminate September 30, 2014, unless before that date the Secretary—

(A) issues policy guidance detailing the appropriate use of that authority; and

(B) provides training to each employee that is authorized to exercise that authority.

(2) Report

The Secretary shall provide an annual report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives detailing the projects for which the authority granted by subsection (a) was used, the rationale for its use, the funds spent using that authority, the outcome of each project for which that authority was used, and the results of any audits of such projects.

(d) Definition of nontraditional Government contractor

In this section, the term “nontraditional Government contractor” has the same meaning as the term “nontraditional defense contractor” as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

(Pub. L. 107-296, title VIII, §831, Nov. 25, 2002, 116 Stat. 2224; Pub. L. 110-161, div. E, title V, §572, Dec. 26, 2007, 121 Stat. 2093; Pub. L. 110-329, div. D, title V, §537, Sept. 30, 2008, 122 Stat. 3687; Pub. L. 111-83, title V, §531, Oct. 28, 2009, 123 Stat. 2174; Pub. L. 112-10, div. B, title VI, §1651, Apr. 15, 2011, 125 Stat. 146; Pub. L. 112-74, div. D, title V, §527, Dec. 23, 2011, 125 Stat. 974; Pub. L. 113-6, div. D, title V, §525, Mar. 26, 2013, 127 Stat. 371; Pub. L. 113-76, div. F, title V, §525, Jan. 17, 2014, 128 Stat. 273.)

REFERENCES IN TEXT

Section 845 of the National Defense Authorization Act for Fiscal Year 1994, referred to in subsecs. (a)(2) and (d), is section 845 of Pub. L. 103-160, which is set out as a note under section 2371 of Title 10, Armed Forces.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-76, §525(1), substituted “Until September 30, 2014,” for “Until September 30, 2013,” in introductory provisions.

Subsec. (c)(1). Pub. L. 113-76, §525(2), substituted “September 30, 2014,” for “September 30, 2013,” in introductory provisions.

2013—Subsec. (a). Pub. L. 113-6, §525(1), substituted “Until September 30, 2013,” for “Until September 30, 2012,” in introductory provisions.