

receives the assessment of the Commander of the United States Strategic Command under paragraph (1), the Chairman shall submit to the congressional defense committees—

- (A) such assessment as it was submitted to the Chairman; and
- (B) any comments of the Chairman.

(3) If a House of Congress adopts a bill authorizing or appropriating funds for the activities of the Department of Defense positioning, navigation, and timing enterprise that, as determined by the Council, provides insufficient funds for such activities for the period covered by such bill, the Council shall notify the congressional defense committees of the determination.

(g) NOTIFICATION OF ANOMALIES.—(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the Department of Defense positioning, navigation, and timing enterprise that is reported to the Secretary or the Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

(2) In this subsection, the term “anomaly” means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system.

(h) TERMINATION.—The Council shall terminate on the date that is 10 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016.

(Added Pub. L. 114-92, div. A, title XVI, § 1603(a), Nov. 25, 2015, 129 Stat. 1096.)

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (h), is the date of enactment of Pub. L. 114-92, which was approved Nov. 25, 2015.

CHAPTER 136—PROVISIONS RELATING TO SPECIFIC PROGRAMS

Sec.	
2281.	Global Positioning System.
2282.	Authority to build the capacity of foreign security forces.

AMENDMENT OF ANALYSIS

Pub. L. 114-328, div. A, title XII, § 1241(d)(6), Dec. 23, 2016, 130 Stat. 2505, provided that, effective as of the date that is 270 days after Dec. 23, 2016, this analysis is amended by striking item 2282. See 2016 Amendment note below.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XII, § 1241(d)(6), Dec. 23, 2016, 130 Stat. 2505, struck out item 2282 “Authority to build the capacity of foreign security forces”.

2014—Pub. L. 113-291, div. A, title XII, § 1205(a)(2), Dec. 19, 2014, 128 Stat. 3536, added item 2282.

2011—Pub. L. 112-81, div. A, title X, § 1061(13)(B), Dec. 31, 2011, 125 Stat. 1583, struck out item 2282 “B-2 bomber: annual report”.

2000—Pub. L. 106-398, § 1 [[div. A], title I, § 131(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-29, added item 2282.

§ 2281. Global Positioning System

(a) SUSTAINMENT AND OPERATION FOR MILITARY PURPOSES.—The Secretary of Defense shall pro-

vide for the sustainment of the capabilities of the Global Positioning System (hereinafter in this section referred to as the “GPS”), and the operation of basic GPS services, that are beneficial for the national security interests of the United States. In doing so, the Secretary shall—

(1) develop appropriate measures for preventing hostile use of the GPS so as to make it unnecessary for the Secretary to use the selective availability feature of the system continuously while not hindering the use of the GPS by the United States and its allies for military purposes; and

(2) ensure that United States armed forces have the capability to use the GPS effectively despite hostile attempts to prevent the use of the system by such forces.

(b) SUSTAINMENT AND OPERATION FOR CIVILIAN PURPOSES.—The Secretary of Defense shall provide for the sustainment and operation of the GPS Standard Positioning Service for peaceful civil, commercial, and scientific uses on a continuous worldwide basis free of direct user fees. In doing so, the Secretary—

(1) shall provide for the sustainment and operation of the GPS Standard Positioning Service in order to meet the performance requirements of the Federal Radionavigation Plan prepared jointly by the Secretary of Defense and the Secretary of Transportation pursuant to subsection (c);

(2) shall coordinate with the Secretary of Transportation regarding the development and implementation by the Government of augmentations to the basic GPS that achieve or enhance uses of the system in support of transportation;

(3) shall coordinate with the Secretary of Commerce, the United States Trade Representative, and other appropriate officials to facilitate the development of new and expanded civil and commercial uses for the GPS;

(4) shall develop measures for preventing hostile use of the GPS in a particular area without hindering peaceful civil use of the system elsewhere; and

(5) may not agree to any restriction on the Global Positioning System proposed by the head of a department or agency of the United States outside the Department of Defense in the exercise of that official’s regulatory authority that would adversely affect the military potential of the Global Positioning System.

(c) FEDERAL RADIONAVIGATION PLAN.—The Secretary of Defense and the Secretary of Transportation shall jointly prepare the Federal Radionavigation Plan. The plan shall be revised and updated not less often than every two years. The plan shall be prepared in accordance with the requirements applicable to such plan as first prepared pursuant to section 507 of the International Maritime Satellite Telecommunications Act¹ (47 U.S.C. 756). The plan, and any amendment to the plan, shall be published in the Federal Register.

(d) DEFINITIONS.—In this section:

(1) The term “basic GPS services” means the following components of the Global Position-

¹ See References in Text note below.

ing System that are operated and maintained by the Department of Defense:

(A) The constellation of satellites.

(B) The navigation payloads that produce the Global Positioning System signals.

(C) The ground stations, data links, and associated command and control facilities.

(2) The term “GPS Standard Positioning Service” means the civil and commercial service provided by the basic Global Positioning System as defined in the 1996 Federal Radionavigation Plan (published jointly by the Secretary of Defense and the Secretary of Transportation in July 1997).

(Added Pub. L. 105-85, div. A, title X, §1074(d)(1), Nov. 18, 1997, 111 Stat. 1909; amended Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title IX, §914, Nov. 24, 2003, 117 Stat. 1567; Pub. L. 111-84, div. A, title X, §1032, Oct. 28, 2009, 123 Stat. 2448; Pub. L. 112-239, div. A, title X, §1064, Jan. 2, 2013, 126 Stat. 1941.)

REFERENCES IN TEXT

Section 507 of the International Maritime Satellite Telecommunications Act, referred to in subsec. (c), is section 507 of Pub. L. 87-624 which was classified to section 756 of Title 47, Telecommunications, prior to repeal by Pub. L. 103-414, title III, §304(b)(5), Oct. 25, 1994, 108 Stat. 4298.

AMENDMENTS

2013—Subsecs. (d), (e). Pub. L. 112-239 redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to biennial reports on the Global Positioning System.

2009—Subsec. (d)(1). Pub. L. 111-84, §1032(a)(1), in introductory provisions, substituted “the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing,” for “the Secretary of Defense” and “the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives” for “the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives”.

Subsec. (d)(1)(B)(ii). Pub. L. 111-84, §1032(b), inserted “validated” before “performance requirements” and “in accordance with Office of Management and Budget Circular A-109” after “Plan”.

Subsec. (d)(2). Pub. L. 111-84, §1032(a)(2), added par. (2) and struck out former par. (2), which read as follows: “In preparing the parts of each such report required under subparagraphs (C), (D), (E), (F), and (G) of paragraph (1), the Secretary of Defense shall consult with the Secretary of State, the Secretary of Commerce, and the Secretary of Transportation.”

2003—Subsec. (d)(1)(C). Pub. L. 108-136, §914(a)(1), (2), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: “The most recent determination by the President regarding continued use of the selective availability feature of the system and the expected date of any change or elimination of the use of that feature.”

Subsec. (d)(1)(D). Pub. L. 108-136, §914(a)(3), redesignated subpar. (E) as (D) and substituted “Progress and challenges in” for “Any progress made toward”. Former subpar. (D) redesignated (C).

Subsec. (d)(1)(E). Pub. L. 108-136, §914(a)(4), added subpar. (E). Former subpar. (E) redesignated (D).

Subsec. (d)(1)(F). Pub. L. 108-136, §914(a)(4), added subpar. (F) and struck out former subpar. (F) which read as follows: “Any progress made toward protecting GPS from disruption and interference.”

Subsec. (d)(2). Pub. L. 108-136, §914(b), inserted “(C),” after “under subparagraphs”.

1999—Subsec. (d)(1). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

QUARTERLY REPORTS ON GLOBAL POSITIONING SYSTEM III SPACE SEGMENT, GLOBAL POSITIONING SYSTEM OPERATIONAL CONTROL SEGMENT, AND MILITARY GLOBAL POSITIONING SYSTEM USER EQUIPMENT ACQUISITION PROGRAMS

Pub. L. 114-92, div. A, title XVI, §1621, Nov. 25, 2015, 129 Stat. 1109, provided that:

“(a) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Nov. 25, 2015], and every 90 days thereafter, the Secretary of the Air Force shall submit to the Comptroller General of the United States a report and supporting documentation on the Global Positioning System III space segment, the Global Positioning System operational control segment, and the Military Global Positioning System user equipment acquisition programs.

“(b) ELEMENTS.—Each report required by subsection (a) shall include, with respect to an acquisition program specified in that subsection, the following:

“(1) A statement of the status of the program with respect to cost, schedule, and performance.

“(2) A description of any changes to the requirements of the program.

“(3) A description of any technical risks impacting the cost, schedule, and performance of the program.

“(4) An assessment of how such risks are to be addressed and the costs associated with such risks.

“(5) An assessment of the extent to which the segments of the program are synchronized.

“(c) BRIEFINGS BY COMPTROLLER GENERAL.—The Comptroller General shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on a report submitted under subsection (a)—

“(1) in the case of the first such report, not later than 30 days after receiving that report; and

“(2) as the Comptroller General considers appropriate thereafter.

“(d) TERMINATION.—The requirement under subsection (a) shall terminate with respect to an acquisition program specified in that subsection on the date on which that program reaches initial operational capability.”

LIMITATION ON CONSTRUCTION ON UNITED STATES TERRITORY OF SATELLITE POSITIONING GROUND MONITORING STATIONS OF FOREIGN GOVERNMENTS

Pub. L. 113-66, div. A, title XVI, §1602(b), Dec. 26, 2013, 127 Stat. 943, provided that:

“(1) CERTIFICATION.—

“(A) IN GENERAL.—The President may not authorize or permit the construction of a global navigation satellite system ground monitoring station directly or indirectly controlled by a foreign government (including a ground monitoring station owned, operated, or controlled on behalf of a foreign government) in the territory of the United States unless the Secretary of Defense and the Director of National Intelligence jointly certify to the appropriate congressional committees that such ground monitoring station will not possess the capability or potential to be used for the purpose of gathering intelligence in the United States or improving any foreign weapon system.

“(B) FORM.—Each certification under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

“(2) NATIONAL SECURITY WAIVER.—The Secretary of Defense and the Director of National Intelligence may jointly waive the certification requirement in paragraph (1) for a ground monitoring station if—

“(A) the Secretary and the Director jointly determine that the waiver is in the vital interests of the national security of the United States; and

“(B) the Secretary and the Director ensure that—

“(i) all data collected or transmitted from ground monitoring stations covered by the waiver are not encrypted;

“(ii) all persons involved in the construction, operation, and maintenance of such ground monitoring stations are United States persons;

“(iii) such ground monitoring stations are not located in geographic proximity to sensitive United States national security sites;

“(iv) the United States approves all equipment to be located at such ground monitoring stations;

“(v) appropriate actions are taken to ensure that any such ground monitoring stations do not pose a cyber espionage or other threat, including intelligence or counterintelligence, to the national security of the United States; and

“(vi) any improvements to such ground monitoring stations do not reduce or compete with the advantages of Global Positioning System technology for users.

“(3) WAIVER REPORT.—For each waiver under paragraph (2), the Secretary of Defense and the Director of National Intelligence, in consultation with the Secretary of State, shall jointly submit to the appropriate congressional committees a report containing—

“(A) the reason why it is not possible to provide the certification under paragraph (1) for the ground monitoring stations covered by such waiver;

“(B) an assessment of the impact of the exercise of authority under paragraph (2) with respect to such ground monitoring stations on the national security of the United States;

“(C) a description of the means to be used to mitigate any such impact to the United States for the duration that such ground monitoring stations are operated in the territory of the United States; and

“(D) any other information in connection with the waiver that the Secretary of Defense and the Director of National Intelligence, in consultation with the Secretary of State, consider appropriate.

“(4) NOTICE.—Not later than 30 days before the exercise of the authority to waive under paragraph (2) the certification requirement under paragraph (1) for a ground monitoring station, the Secretary of Defense and the Director of National Intelligence shall jointly provide to the appropriate congressional committees notice of the exercise of such authority and the report required under paragraph (3) with respect to such ground monitoring station.

“(5) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term ‘appropriate congressional committees’ means—

“(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

“(B) the Committee on Armed Services, the committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

“(6) SUNSET.—Effective on the date that is five years after the date of the enactment of this Act [Dec. 26, 2013], paragraphs (1) through (5) are repealed.”

USE OF FUNDS FOR GLOBAL POSITIONING SYSTEM

Pub. L. 112-10, div. A, title VIII, §8068, Apr. 15, 2011, 125 Stat. 73, provided that: “Funds available to the Department of Defense for the Global Positioning System during the current fiscal year, and hereafter, may be used to fund civil requirements associated with the satellite and ground control segments of such system’s modernization program.”

LIMITATION ON USE OF FUNDS FOR PURCHASING GLOBAL POSITIONING SYSTEM USER EQUIPMENT

Pub. L. 111-383, div. A, title IX, §913, Jan. 7, 2011, 124 Stat. 4328, as amended by Pub. L. 114-92, div. A, title XVI, §1605, Nov. 25, 2015, 129 Stat. 1099, provided that:

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), none of the funds authorized to be appropriated or otherwise made available by this Act or any other Act for the Department of Defense may be obligated or expended to purchase user equipment for the Global Positioning System during fiscal years after fiscal year 2017 unless the equipment is capable of receiving the military code (commonly known as the ‘M code’) from the Global Positioning System.

“(b) EXCEPTION.—The limitation under subsection (a) shall not apply with respect to the purchase of passenger vehicles or commercial vehicles in which Global Positioning System equipment is installed.

“(c) WAIVER.—The Secretary of Defense may waive the limitation under subsection (a) if the Secretary determines that—

“(1) suitable user equipment capable of receiving the military code from the Global Positioning System is not available; or

“(2) with respect to a purchase of user equipment, the Department of Defense does not require that user equipment to be capable of receiving the military code from the Global Positioning System.

“(d) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The Secretary of Defense may not delegate the authority to make a waiver under subsection (c) to an official below the level of the Secretaries of the military departments or the Under Secretary of Defense for Acquisition, Technology, and Logistics.”

AUTHORIZATION OF INTERAGENCY SUPPORT FOR GLOBAL POSITIONING SYSTEM

Pub. L. 106-405, §8, Nov. 1, 2000, 114 Stat. 1753, as amended by Pub. L. 109-364, div. A, title IX, §911, Oct. 17, 2006, 120 Stat. 2354, provided that: “The use of multi-agency funding and other forms of support is hereby authorized for the functions and activities of the following organizations established pursuant to the United States Space-Based Position, Navigation, and Timing Policy issued December 8, 2004 (and any successor organization, to the extent the successor organization performs the functions of the specified organization):

“(1) The interagency committee known as the National Space-Based Positioning, Navigation, and Timing Executive Committee.

“(2) The support office for the committee specified in paragraph (1) known as the National Space-Based Positioning, Navigation, and Timing Coordination Office.

“(3) The Federal advisory committee known as the National Space-Based Positioning, Navigation, and Timing Advisory Board.”

ENHANCED GLOBAL POSITIONING SYSTEM PROGRAM

Pub. L. 105-261, div. A, title II, §218, Oct. 17, 1998, 112 Stat. 1951, provided that:

“(a) POLICY ON PRIORITY FOR DEVELOPMENT OF ENHANCED GPS SYSTEM.—The development of an enhanced Global Positioning System is an urgent national security priority.

“(b) DEVELOPMENT REQUIRED.—To fulfill the requirements described in section 279(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 243) [set out as a note below] and section 2281 of title 10, United States Code, the Secretary of Defense shall develop an enhanced Global Positioning System in accordance with the priority declared in subsection (a). The enhanced Global Positioning System shall include the following elements:

“(1) An evolved satellite system that includes increased signal power and other improvements such as regional-level directional signal enhancements.

“(2) Enhanced receivers and user equipment that are capable of providing military users with direct access to encrypted Global Positioning System signals.

“(3) To the extent funded by the Secretary of Transportation, additional civil frequencies and other enhancements for civil users.

“(c) SENSE OF CONGRESS REGARDING FUNDING.—It is the sense of Congress that—

“(1) the Secretary of Defense should ensure that the future-years defense program provides for sufficient funding to develop and deploy an enhanced Global Positioning System in accordance with the priority declared in subsection (a); and

“(2) the Secretary of Transportation should provide sufficient funding to support additional civil frequencies for the Global Positioning System and other enhancements of the system for civil users.

“(d) PLAN FOR DEVELOPMENT OF ENHANCED GLOBAL POSITIONING SYSTEM.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a plan for carrying out the requirements of subsection (b).

“(e) DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.—[Amended section 152(b) of Pub. L. 103-160, set out as a note below.]

“(f) FUNDING FROM AUTHORIZED APPROPRIATIONS FOR FISCAL YEAR 1999.—Of the amounts authorized to be appropriated under section 201(3) [112 Stat. 1946], \$44,000,000 shall be available to establish and carry out an enhanced Global Positioning System program.”

SUSTAINMENT AND OPERATION OF GLOBAL POSITIONING SYSTEM

Pub. L. 105-85, div. A, title X, §1074(a), (b), Nov. 18, 1997, 111 Stat. 1907, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The Global Positioning System (consisting of a constellation of satellites and associated facilities capable of providing users on earth with a highly precise statement of their location on earth) makes significant contributions to the attainment of the national security and foreign policy goals of the United States, the safety and efficiency of international transportation, and the economic growth, trade, and productivity of the United States.

“(2) The infrastructure for the Global Positioning System (including both space and ground segments of the infrastructure) is vital to the effectiveness of United States and allied military forces and to the protection of the national security interests of the United States.

“(3) In addition to having military uses, the Global Positioning System has essential civil, commercial, and scientific uses.

“(4) As a result of the increasing demand of civil, commercial, and scientific users of the Global Positioning System—

“(A) there has emerged in the United States a new commercial industry to provide Global Positioning System equipment and related services to the many and varied users of the system; and

“(B) there have been rapid technical advancements in Global Positioning System equipment and services that have contributed significantly to reductions in the cost of the Global Positioning System and increases in the technical capabilities and availability of the system for military uses.

“(5) It is in the national interest of the United States for the United States—

“(A) to support continuation of the multiple-use character of the Global Positioning System;

“(B) to promote broader acceptance and use of the Global Positioning System and the technological standards that facilitate expanded use of the system for civil purposes;

“(C) to coordinate with other countries to ensure (i) efficient management of the electromagnetic spectrum used by the Global Positioning System, and (ii) protection of that spectrum in order to prevent disruption of signals from the system and interference with that portion of the electromagnetic spectrum used by the system; and

“(D) to encourage open access in all international markets to the Global Positioning System and supporting equipment, services, and techniques.

“(b) INTERNATIONAL COOPERATION.—Congress urges the President to promote the security of the United States and its allies, the public safety, and commercial interests by taking the following steps:

“(1) Undertaking a coordinated effort within the executive branch to seek to establish the Global Positioning System, and augmentations to the system, as a worldwide resource.

“(2) Seeking to enter into international agreements to establish signal and service standards that protect the Global Positioning System from disruption and interference.

“(3) Undertaking efforts to eliminate any barriers to, and other restrictions of foreign governments on, peaceful uses of the Global Positioning System.

“(4) Requiring that any proposed international agreement involving nonmilitary use of the Global Positioning System or any augmentation to the system not be agreed to by the United States unless the proposed agreement has been reviewed by the Secretary of State, the Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce (acting as the Interagency Global Positioning System Executive Board established by Presidential Decision Directive NSTC-6, dated March 28, 1996).”

ACCESS TO GLOBAL POSITIONING SYSTEM

Pub. L. 104-106, div. A, title II, §279, Feb. 10, 1996, 110 Stat. 243, provided that:

“(a) CONDITIONAL PROHIBITION ON USE OF SELECTIVE AVAILABILITY FEATURE.—Except as provided in subsection (b), after May 1, 1996, the Secretary of Defense may not (through use of the feature known as ‘selective availability’) deny access of non-Department of Defense users to the full capabilities of the Global Positioning System.

“(b) PLAN.—Subsection (a) shall cease to apply upon submission by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of a plan for enhancement of the Global Positioning System that provides for—

“(1) development and acquisition of effective capabilities to deny hostile military forces the ability to use the Global Positioning System without hindering the ability of United States military forces and civil users to have access to and use of the system, together with a specific date by which those capabilities could be operational; and

“(2) development and acquisition of receivers for the Global Positioning System and other techniques for weapons and weapon systems that provide substantially improved resistance to jamming and other forms of electronic interference or disruption, together with a specific date by which those receivers and other techniques could be operational with United States military forces.”

LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED

Pub. L. 103-160, div. A, title I, §152(b), Nov. 30, 1993, 107 Stat. 1578, as amended by Pub. L. 105-261, div. A, title II, §218(e), Oct. 17, 1998, 112 Stat. 1952; Pub. L. 109-163, div. A, title II, §260(a), Jan. 6, 2006, 119 Stat. 3185, provided that: “After September 30, 2007, funds may not be obligated to modify or procure any Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver.”

[Pub. L. 109-163, div. A, title II, §260(b), Jan. 6, 2006, 119 Stat. 3186, provided that: “The amendment made by subsection (a) [amending section 152(b) of Pub. L. 103-160, set out above] shall be deemed to have taken effect at the close of September 30, 2005, and any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act [Jan. 6, 2006] to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire

weapon system that is not equipped with a Global Positioning System receiver is hereby ratified with respect to the provision of law specified in subsection (a).”]

§ 2282. Authority to build the capacity of foreign security forces

(a) **AUTHORITY.**—The Secretary of Defense, with the concurrence of the Secretary of State, is authorized to conduct or support a program or programs as follows:

(1) To build the capacity of a foreign country’s national military forces in order for that country to—

(A) conduct counterterrorism operations; or

(B) participate in or support on-going allied or coalition military or stability operations that benefit the national security interests of the United States.

(2) To build the capacity of a foreign country’s national maritime or border security forces to conduct counterterrorism operations.

(3) To build the capacity of a foreign country’s national-level security forces that have among their functional responsibilities a counterterrorism mission in order for such forces to conduct counterterrorism operations.

(b) **TYPES OF CAPACITY BUILDING.**—

(1) **AUTHORIZED ELEMENTS.**—A program under subsection (a) may include the provision of equipment, supplies, training, defense services, and small-scale military construction.

(2) **REQUIRED ELEMENTS.**—A program under subsection (a) shall include elements that promote the following:

(A) Observance of and respect for human rights and fundamental freedoms.

(B) Respect for civilian control of the military.

(c) **LIMITATIONS.**—

(1) **ANNUAL FUNDING LIMITATION.**—The Secretary of Defense may use amounts specifically authorized and appropriated or otherwise made available to carry out programs under this section on an annual basis to carry out programs authorized by subsection (a).

(2) **ASSISTANCE OTHERWISE PROHIBITED BY LAW.**—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in subsection (b) that is otherwise prohibited by any provision of law.

(3) **LIMITATION ON ELIGIBLE COUNTRIES.**—The Secretary of Defense may not use the authority in subsection (a) to provide assistance described in subsection (b) to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(4) **AVAILABILITY OF FUNDS FOR ACTIVITIES ACROSS FISCAL YEARS.**—

(A) **IN GENERAL.**—Amounts made available in a fiscal year to carry out the authority in subsection (a) may be used for programs under that authority that begin in the fiscal year such amounts are made available but end in the next fiscal year.

(B) **ACHIEVEMENT OF FULL OPERATIONAL CAPABILITY.**—If, in accordance with subparagraph (A), equipment is delivered under a

program under the authority in subsection (a) in the fiscal year after the fiscal year in which the program begins, amounts for supplies, training, defense services, and small-scale military construction associated with such equipment and necessary to ensure that the recipient unit achieves full operational capability for such equipment may be used in the fiscal year in which the foreign country takes receipt of such equipment and in the next fiscal year.

(5) **LIMITATIONS ON AVAILABILITY OF FUNDS FOR SMALL-SCALE MILITARY CONSTRUCTION.**—

(A) **ACTIVITIES UNDER PARTICULAR PROGRAMS.**—The amount that may be obligated or expended for small-scale military construction activities under any particular program authorized under subsection (a) may not exceed \$750,000.

(B) **ACTIVITIES UNDER ALL PROGRAMS.**—The amount that may be obligated or expended for small-scale military construction activities during a fiscal year for all programs authorized under subsection (a) during that fiscal year may not exceed up to five percent of the amount made available in such fiscal year to carry out the authority in subsection (a).

(d) **FORMULATION AND EXECUTION OF PROGRAM.**—The Secretary of Defense and the Secretary of State shall jointly formulate any program under subsection (a). The Secretary of Defense shall coordinate with the Secretary of State in the implementation of any program under subsection (a).

(e) **CONGRESSIONAL NOTIFICATION.**—

(1) **IN GENERAL.**—Not less than 15 days before initiating activities under a program under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a notice of the following:

(A) The country whose capacity to engage in activities in subsection (a) will be built under the program.

(B) The budget, implementation timeline with milestones, anticipated delivery schedule for assistance, military department responsible for management and associated program executive office, and completion date for the program.

(C) The source and planned expenditure of funds to complete the program.

(D) A description of the arrangements, if any, for the sustainment of the program and the source of funds to support sustainment of the capabilities and performance outcomes achieved under the program beyond its completion date, if applicable.

(E) A description of the program objectives and assessment framework to be used to develop capability and performance metrics associated with operational outcomes for the recipient unit.

(F) Information, including the amount, type, and purpose, on the assistance provided the country during the three preceding fiscal years under each of the following programs, accounts, or activities:

(i) A program under this section.

(ii) The Foreign Military Financing program under the Arms Export Control Act.