

§ 129d. Disclosure to litigation support contractors

(a) DISCLOSURE AUTHORITY.—An officer or employee of the Department of Defense may disclose sensitive information to a litigation support contractor if—

(1) the disclosure is for the sole purpose of providing litigation support to the Government in the form of administrative, technical, or professional services during or in anticipation of litigation; and

(2) under a contract with the Government, the litigation support contractor agrees to and acknowledges—

(A) that sensitive information furnished will be accessed and used only for the purposes stated in the relevant contract;

(B) that the contractor will take all precautions necessary to prevent disclosure of the sensitive information provided to the contractor;

(C) that such sensitive information provided to the contractor under the authority of this section shall not be used by the contractor to compete against a third party for Government or non-Government contracts; and

(D) that the violation of subparagraph (A), (B), or (C) is a basis for the Government to terminate the litigation support contract of the contractor.

(b) DEFINITIONS.—In this section:

(1) The term “litigation support contractor” means a contractor (including an expert or technical consultant) under contract with the Department of Defense to provide litigation support.

(2) The term “sensitive information” means confidential commercial, financial, or proprietary information, technical data, or other privileged information.

(Added Pub. L. 112-81, div. A, title VIII, § 802(a)(1), Dec. 31, 2011, 125 Stat. 1484.)

§ 130. Authority to withhold from public disclosure certain technical data

(a) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any technical data with military or space application in the possession of, or under the control of, the Department of Defense, if such data may not be exported lawfully outside the United States without an approval, authorization, or license under the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.). However, technical data may not be withheld under this section if regulations promulgated under either such Act authorize the export of such data pursuant to a general, unrestricted license or exemption in such regulations.

(b) Regulations under this section shall be published in the Federal Register for a period of no less than 30 days for public comment before promulgation. Such regulations shall address, where appropriate, releases of technical data to allies of the United States and to qualified United States contractors, including United

States contractors that are small business concerns, for use in performing United States Government contracts.

(c) In this section, the term “technical data with military or space application” means any blueprints, drawings, plans, instructions, computer software and documentation, or other technical information that can be used, or be adapted for use, to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.

(Added Pub. L. 98-94, title XII, § 1217(a), Sept. 24, 1983, 97 Stat. 690, § 140c; amended Pub. L. 99-145, title XIII, § 1303(a)(3), Nov. 8, 1985, 99 Stat. 738; renumbered § 130 and amended Pub. L. 99-433, title I, §§ 101(a)(3), 110(d)(6), Oct. 1, 1986, 100 Stat. 994, 1003; Pub. L. 100-26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-510, div. A, title XIV, § 1484(b)(1), Nov. 5, 1990, 104 Stat. 1715; Pub. L. 114-328, div. A, title X, § 1081(b)(3)(A), Dec. 23, 2016, 130 Stat. 2418.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§ 4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 50 and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328 substituted “(50 U.S.C. 4601 et seq.)” for “(50 U.S.C. App. 2401-2420)”.

1990—Subsecs. (b), (c). Pub. L. 101-510 substituted “Regulations under this section” for “(1) Within 90 days after September 24, 1983, the Secretary of Defense shall propose regulations to implement this section. Such regulations” in subsec. (b) and redesignated former subsec. (b)(2) as subsec. (c).

1987—Subsec. (b)(2). Pub. L. 100-26 inserted “the term” after “In this section,”.

1986—Pub. L. 99-433 renumbered section 140c of this title as this section and substituted “Authority” for “Secretary of Defense: authority” in section catchline.

1985—Subsec. (b)(1). Pub. L. 99-145 substituted “September 24, 1983” for “enactment of this section”.

§ 130a. Repealed. Pub. L. 110-181, div. A, title IX, § 901(a)(1), Jan. 28, 2008, 122 Stat. 272]

Section, added Pub. L. 105-85, div. A, title IX, § 911(a)(1), Nov. 18, 1997, 111 Stat. 1857; amended Pub. L. 106-65, div. A, title IX, § 921(a)(1), Oct. 5, 1999, 113 Stat. 722; Pub. L. 106-398, § 1 [[div. A], title IX, § 941], Oct. 30, 2000, 114 Stat. 1654, 1654A-241; Pub. L. 108-375, div. A, title X, § 1084(d)(2), Oct. 28, 2004, 118 Stat. 2061, related to major Department of Defense headquarters activities personnel.

§ 130b. Personnel in overseas, sensitive, or routinely deployable units: nondisclosure of personally identifying information

(a) EXEMPTION FROM DISCLOSURE.—The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security