

§ 2424. Procedures relating to access by individuals to classified areas and information of Administration

The Administrator shall establish appropriate procedures to ensure that any individual is not permitted unescorted access to any classified area, or access to classified information, of the Administration until that individual has been verified to hold the appropriate security clearances.

(Pub. L. 106-65, div. C, title XXXII, §3234, Oct. 5, 1999, 113 Stat. 961.)

§ 2425. Government access to information on Administration computers

(a) Procedures required

The Administrator shall establish procedures to govern access to information on Administration computers. Those procedures shall, at a minimum, provide that any individual who has access to information on an Administration computer shall be required as a condition of such access to provide to the Administrator written consent which permits access by an authorized investigative agency to any Administration computer used in the performance of the duties of such employee during the period of that individual's access to information on an Administration computer and for a period of three years thereafter.

(b) Expectation of privacy in Administration computers

Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986 (Public Law 99-508; 100 Stat. 1848)), no user of an Administration computer shall have any expectation of privacy in the use of that computer.

(c) Definition

For purposes of this section, the term "authorized investigative agency" means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(Pub. L. 106-65, div. C, title XXXII, §3235, Oct. 5, 1999, 113 Stat. 961; Pub. L. 113-66, div. C, title XXXI, §3145(c), Dec. 26, 2013, 127 Stat. 1071.)

REFERENCES IN TEXT

The Electronic Communications Privacy Act of 1986, referred to in subsec. (b), is Pub. L. 99-508, Oct. 21, 1986, 100 Stat. 1848. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 2510 of Title 18, Crimes and Criminal Procedure, and Tables.

AMENDMENTS

2013—Subsec. (b). Pub. L. 113-66 inserted "(Public Law 99-508; 100 Stat. 1848)" after "of 1986".

§ 2426. Congressional oversight of special access programs

(a) Annual report on special access programs

(1) Not later than February 1 of each year, the Administrator shall submit to the congressional

defense committees a report on special access programs of the Administration.

(2) Each such report shall set forth—

(A) the total amount requested for such programs in the President's budget for the next fiscal year submitted under section 1105 of title 31; and

(B) for each such program in that budget, the following:

(i) A brief description of the program.

(ii) A brief discussion of the major milestones established for the program.

(iii) The actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted.

(iv) The estimated total cost of the program and the estimated cost of the program for—

(I) the current fiscal year;

(II) the fiscal year for which the budget is submitted; and

(III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(b) Annual report on new special access programs

(1) Not later than February 1 of each year, the Administrator shall submit to the congressional defense committees a report that, with respect to each new special access program, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term "new special access program" means a special access program that has not previously been covered in a notice and justification under this subsection.

(c) Reports on changes in classification of special access programs

(1) Whenever a change in the classification of a special access program of the Administration is planned to be made or whenever classified information concerning a special access program of the Administration is to be declassified and made public, the Administrator shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

(3) If the Administrator determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announce-

ment concerning a special access program of the Administration, the Administrator may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

(d) Notice of change in SAP designation criteria

Whenever there is a modification or termination of the policy and criteria used for designating a program of the Administration as a special access program, the Administrator shall promptly notify the congressional defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e) Waiver authority

(1) The Administrator may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the Administrator determines that inclusion of that information in the report would adversely affect the national security. The Administrator may waive the report-and-wait requirement in subsection (f) if the Administrator determines that compliance with such requirement would adversely affect the national security. Any waiver under this paragraph shall be made on a case-by-case basis.

(2) If the Administrator exercises the authority provided under paragraph (1), the Administrator shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the congressional defense committees.

(f) Report and wait for initiating new programs

A special access program may not be initiated until—

(1) the congressional defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

(Pub. L. 106–65, div. C, title XXXII, §3236, Oct. 5, 1999, 113 Stat. 962; Pub. L. 113–291, div. C, title XXXI, §3143(b), Dec. 19, 2014, 128 Stat. 3902.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2122a of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 106–65, §3294(e)(1)(A).

AMENDMENTS

2014—Subsec. (a)(2)(B)(iv). Pub. L. 113–291 substituted “program for—” for “program for” before subcl. (I) designation, “year;” for “year,” at end of subcl. (I), and “; and” for “, and” at end of subcl. (II) and realigned margins of subcls. (I) to (III).

SUBCHAPTER III—MATTERS RELATING TO PERSONNEL

PAY ADJUSTMENT DEMONSTRATION PROJECT

Pub. L. 115–91, div. C, title XXXI, §3116(a), Dec. 12, 2017, 131 Stat. 1888, provided that:

“(1) EXTENSION.—The Administrator for Nuclear Security shall carry out the pay banding and performance-based pay adjustment demonstration project of the National Nuclear Security Administration authorized under section 4703 of title 5, United States Code, until the date that is 10 years after the date of the enactment of this Act [Dec. 12, 2017].

“(2) MODIFICATIONS.—In carrying out the demonstration project described in paragraph (1), the Administrator—

“(A) may, subject to subparagraph (B), revise the requirements and limitations of the demonstration project to the extent necessary; and

“(B) shall—

“(i) ensure that the demonstration project is carried out in a manner consistent with the plan for the demonstration project published in the Federal Register on December 21, 2007 (72 Fed. Reg. 72776);

“(ii) ensure that significant changes in the demonstration project not take effect until revisions, as necessary and applicable, to the plan for the demonstration project are approved by the Office of Personnel Management and published in the Federal Register;

“(iii) ensure that procedural modifications or clarifications to the plan for the demonstration project be made through local notification processes;

“(iv) authorize, and establish incentives for, employees of the National Nuclear Security Administration to have rotational assignments among different programs of the Administration, the headquarters and field offices of the Administration, and the management and operating contractors of the Administration; and

“(v) establish requirements for employees of the Administration who are in the demonstration project described in paragraph (1) to be promoted to senior-level positions in the Administration, including requirements with respect to—

“(I) professional training and continuing education; and

“(II) a certain number and types of rotational assignments under clause (iv), as determined by the Administrator.

“(3) APPLICATION TO NAVAL NUCLEAR PROPULSION PROGRAM.—The Director of the Naval Nuclear Propulsion Program established pursuant to section 4101 of the Atomic Energy Defense Act (50 U.S.C. 2511) and section 3216 of the National Nuclear Security Administration Act (50 U.S.C. 2406) may, with the concurrence of the Secretary of the Navy, apply the demonstration project described in paragraph (1) to—

“(A) all employees of the Naval Nuclear Propulsion Program in the competitive service (as defined in section 2102 of title 5, United States Code); and

“(B) all employees of the Department of [the] Navy who are assigned to the Naval Nuclear Propulsion Program and are in the excepted service (as defined in section 2103 of title 5, United States Code) (other than such employees in statutory excepted service systems).”

ROTATIONS FOR CERTAIN CONTRACTORS

Pub. L. 115–91, div. C, title XXXI, §3116(b), Dec. 12, 2017, 131 Stat. 1889, provided that:

“(1) INCREASED USE.—The Administrator for Nuclear Security shall increase the use of rotational assignments of employees of the management and operating contractors of the National Nuclear Security Administration to the headquarters of the Administration, the Department of Defense and the military departments, the intelligence community, and other departments and agencies of the Federal Government.

“(2) METHODS.—The Administrator shall carry out paragraph (1) by—

“(A) establishing incentives for—

“(i) the management and operating contractors of the Administration and the employees of such contractors to participate in rotational assignments; and