

(1) include in national planning frameworks the threat of an EMP or GMD event; and

(2) conduct outreach to educate owners and operators of critical infrastructure, emergency planners, and emergency response providers at all levels of government regarding threats of EMP and GMD.

(Pub. L. 107-296, title V, § 527, as added Pub. L. 114-328, div. A, title XIX, § 1913(a)(4), Dec. 23, 2016, 130 Stat. 2686.)

**§ 321q. Coordination of Department of Homeland Security efforts related to food, agriculture, and veterinary defense against terrorism**

**(a) Program required**

The Secretary, acting through the Assistant Secretary for the Countering Weapons of Mass Destruction Office, shall carry out a program to coordinate the Department's efforts related to defending the food, agriculture, and veterinary systems of the United States against terrorism and other high-consequence events that pose a high risk to homeland security.

**(b) Program elements**

The coordination program required by subsection (a) shall include, at a minimum, the following:

(1) Providing oversight and management of the Department's responsibilities pursuant to Homeland Security Presidential Directive 9—Defense of United States Agriculture and Food.

(2) Providing oversight and integration of the Department's activities related to veterinary public health, food defense, and agricultural security.

(3) Leading the Department's policy initiatives relating to food, animal, and agricultural incidents, and the impact of such incidents on animal and public health.

(4) Leading the Department's policy initiatives relating to overall domestic preparedness for and collective response to agricultural terrorism.

(5) Coordinating with other Department components, including U.S. Customs and Border Protection, as appropriate, on activities related to food and agriculture security and screening procedures for domestic and imported products.

(6) Coordinating with appropriate Federal departments and agencies.

(7) Other activities as determined necessary by the Secretary.

**(c) Rule of construction**

Nothing in this section may be construed as altering or superseding the authority of the Secretary of Agriculture or the Secretary of Health and Human Services.

(Pub. L. 107-296, title V, § 528, as added Pub. L. 115-43, § 2(a), June 30, 2017, 131 Stat. 884; amended Pub. L. 115-387, § 2(f)(5), Dec. 21, 2018, 132 Stat. 5168.)

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-387 substituted “the Countering Weapons of Mass Destruction Office,” for “Health Affairs.”

SUBCHAPTER VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

**§ 331. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations**

**(a) Findings**

Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a \$6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

**(b) Designation of Johnny Micheal Spann Patriot Trusts**

Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a “Johnny Micheal Spann Patriot Trust”.

**(c) Requirements for the designation of Johnny Micheal Spann Patriot Trusts**

The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the invest-

ment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3003(4) of title 50;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107-40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law that prohibits attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than \$1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12

months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in paragraph (1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in paragraph (1).

#### **(d) Treatment of Johnny Micheal Spann Patriot Trusts**

Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 30101(20)(A) of title 52 so that a general solicitation of funds by an individual described in paragraph (1) of section 30125(e) of title 52 will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

#### **(e) Notification of Trust beneficiaries**

Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods and sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust: *Provided*, That, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

#### **(f) Regulations**

Not later than 90 days after November 25, 2002, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

(Pub. L. 107-296, title VI, § 601, Nov. 25, 2002, 116 Stat. 2215.)

#### REFERENCES IN TEXT

The Authorization for Use of Military Force, referred to in subsec. (c)(1), is Pub. L. 107-40, Sept. 18, 2001, 115 Stat. 224, which is set out as a note under section 1541 of Title 50, War and National Defense.

## CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.

## SUBCHAPTER VII—MANAGEMENT

**§ 341. Under Secretary for Management****(a) In general**

The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs. The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems, including policies and directives to achieve and maintain interoperable communications among the components of the Department.

(5) Facilities, property, equipment, vehicle fleets (under subsection (c)), and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Strategic management planning and annual performance planning and identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The management integration and transformation within each functional management discipline of the Department, including information technology, financial management, acquisition management, and human capital management, to ensure an efficient and orderly consolidation of functions and personnel in the Department, including—

(A) the development of centralized data sources and connectivity of information systems to the greatest extent practicable to enhance program visibility, transparency, and operational effectiveness and coordination;

(B) the development of standardized and automated management information to manage and oversee programs and make informed decisions to improve the efficiency of the Department;

(C) the development of effective program management and regular oversight mecha-

nisms, including clear roles and processes for program governance, sharing of best practices, and access to timely, reliable, and evaluated data on all acquisitions and investments; and

(D) the overall supervision, including the conduct of internal audits and management analyses, of the programs and activities of the Department, including establishment of oversight procedures to ensure a full and effective review of the efforts by components of the Department to implement policies and procedures of the Department for management integration and transformation.

(10) The development of a transition and succession plan, before December 1 of each year in which a Presidential election is held, to guide the transition of Department functions to a new Presidential administration, and making such plan available to the next Secretary and Under Secretary for Management and to the congressional homeland security committees.

(11) Reporting to the Government Accountability Office every six months to demonstrate measurable, sustainable progress made in implementing the corrective action plans of the Department to address the designation of the management functions of the Department on the bi-annual high risk list of the Government Accountability Office, until the Comptroller General of the United States submits to the appropriate congressional committees written notification of removal of the high-risk designation.

(12) The conduct of internal audits and management analyses of the programs and activities of the Department.

(13) Any other management duties that the Secretary may designate.

**(b) Waivers for conducting business with suspended or debarred contractors**

Not later than five days after the date on which the Chief Procurement Officer or Chief Financial Officer of the Department issues a waiver of the requirement that an agency not engage in business with a contractor or other recipient of funds listed as a party suspended or debarred from receiving contracts, grants, or other types of Federal assistance in the System for Award Management maintained by the General Services Administration, or any successor thereto, the Under Secretary for Management shall submit to the congressional homeland security committees and the Inspector General of the Department notice of the waiver and an explanation of the finding by the Under Secretary that a compelling reason exists for the waiver.

**(c) Vehicle fleets****(1) In general**

In carrying out responsibilities regarding vehicle fleets pursuant to subsection (a)(5), the Under Secretary for Management shall be responsible for overseeing and managing vehicle fleets throughout the Department. The Under Secretary shall also be responsible for the following:

(A) Ensuring that components are in compliance with Federal law, Federal regulations, executive branch guidance, and De-