

merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

**(c) Miscellaneous provisions**

**(1) In general**

Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

**(2) Certain proposals**

The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

**(3) Coordination**

In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

(Pub. L. 107-296, title III, §313, Nov. 25, 2002, 116 Stat. 2176.)

**§ 194. Enhancement of public safety communications interoperability**

**(a) Coordination of public safety interoperable communications programs**

**(1) Program**

The Secretary of Homeland Security, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall establish a program to enhance public safety interoperable communications at all levels of government. Such program shall—

(A) establish a comprehensive national approach to achieving public safety interoperable communications;

(B) coordinate with other Federal agencies in carrying out subparagraph (A);

(C) develop, in consultation with other appropriate Federal agencies and State and local authorities, appropriate minimum capabilities for communications interoperability for Federal, State, and local public safety agencies;

(D) accelerate, in consultation with other Federal agencies, including the National Institute of Standards and Technology, the private sector, and nationally recognized standards organizations as appropriate, the development of national voluntary consen-

sus standards for public safety interoperable communications, recognizing—

(i) the value, life cycle, and technical capabilities of existing communications infrastructure;

(ii) the need for cross-border interoperability between States and nations;

(iii) the unique needs of small, rural communities; and

(iv) the interoperability needs for daily operations and catastrophic events;

(E) encourage the development and implementation of flexible and open architectures incorporating, where possible, technologies that currently are commercially available, with appropriate levels of security, for short-term and long-term solutions to public safety communications interoperability;

(F) assist other Federal agencies in identifying priorities for research, development, and testing and evaluation with regard to public safety interoperable communications;

(G) identify priorities within the Department of Homeland Security for research, development, and testing and evaluation with regard to public safety interoperable communications;

(H) establish coordinated guidance for Federal grant programs for public safety interoperable communications;

(I) provide technical assistance to State and local public safety agencies regarding planning, acquisition strategies, interoperability architectures, training, and other functions necessary to achieve public safety communications interoperability;

(J) develop and disseminate best practices to improve public safety communications interoperability; and

(K) develop appropriate performance measures and milestones to systematically measure the Nation's progress toward achieving public safety communications interoperability, including the development of national voluntary consensus standards.

**(2) Office for Interoperability and Compatibility**

**(A) Establishment of Office**

The Secretary may establish an Office for Interoperability and Compatibility within the Directorate of Science and Technology to carry out this subsection.

**(B) Functions**

If the Secretary establishes such office, the Secretary shall, through such office—

(i) carry out Department of Homeland Security responsibilities and authorities relating to the SAFECOM Program; and

(ii) carry out section 510<sup>1</sup> of the Homeland Security Act of 2002, as added by subsection (d).

**(3) Authorization of appropriations**

There are authorized to be appropriated to the Secretary to carry out this subsection—

(A) \$22,105,000 for fiscal year 2005;

(B) \$22,768,000 for fiscal year 2006;

<sup>1</sup> See References in Text note below.

- (C) \$23,451,000 for fiscal year 2007;
- (D) \$24,155,000 for fiscal year 2008; and
- (E) \$24,879,000 for fiscal year 2009.

**(b) Report**

Not later than 120 days after December 17, 2004, the Secretary shall report to the Congress on Department of Homeland Security plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development.

**(c) International interoperability**

Not later than 18 months after December 17, 2004, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

- (1) the United States and Canada; and
- (2) the United States and Mexico.

**(d) Omitted**

**(e) Multiyear interoperability grants**

**(1) Multiyear commitments**

In awarding grants to any State, region, local government, or Indian tribe for the purposes of enhancing interoperable communications capabilities for emergency response providers, the Secretary may commit to obligate Federal assistance beyond the current fiscal year, subject to the limitations and restrictions in this subsection.

**(2) Restrictions**

**(A) Time limit**

No multiyear interoperability commitment may exceed 3 years in duration.

**(B) Amount of committed funds**

The total amount of assistance the Secretary has committed to obligate for any future fiscal year under paragraph (1) may not exceed \$150,000,000.

**(3) Letters of intent**

**(A) Issuance**

Pursuant to paragraph (1), the Secretary may issue a letter of intent to an applicant committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an interoperability communications project (including interest costs and costs of formulating the project).

**(B) Schedule**

A letter of intent under this paragraph shall establish a schedule under which the Secretary will reimburse the applicant for the Federal Government's share of the project's costs, as amounts become available, if the applicant, after the Secretary issues the letter, carries out the project before receiving amounts under a grant issued by the Secretary.

**(C) Notice to Secretary**

An applicant that is issued a letter of intent under this subsection shall notify the Secretary of the applicant's intent to carry out a project pursuant to the letter before the project begins.

**(D) Notice to Congress**

The Secretary shall transmit a written notification to the Congress no later than 3 days before the issuance of a letter of intent under this section.

**(E) Limitations**

A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31 and is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

**(F) Statutory construction**

Nothing in this subsection shall be construed—

(i) to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued; or

(ii) to apply to, or replace, Federal assistance intended for interoperable communications that is not provided pursuant to a commitment under this subsection.

**(f) Interoperable communications plans**

Any applicant requesting funding assistance from the Secretary for interoperable communications for emergency response providers shall submit an Interoperable Communications Plan to the Secretary for approval. Such a plan shall—

(1) describe the current state of communications interoperability in the applicable jurisdictions among Federal, State, and local emergency response providers and other relevant private resources;

(2) describe the available and planned use of public safety frequency spectrum and resources for interoperable communications within such jurisdictions;

(3) describe how the planned use of spectrum and resources for interoperable communications is compatible with surrounding capabilities and interoperable communications plans of Federal, State, and local governmental entities, military installations, foreign governments, critical infrastructure, and other relevant entities;

(4) include a 5-year plan for the dedication of Federal, State, and local government and private resources to achieve a consistent, secure, and effective interoperable communications system, including planning, system design and engineering, testing and technology development, procurement and installation, training, and operations and maintenance;

(5) describe how such 5-year plan meets or exceeds any applicable standards and grant requirements established by the Secretary;

(6) include information on the governance structure used to develop the plan, including such information about all agencies and organizations that participated in developing the plan and the scope and timeframe of the plan; and

(7) describe the method by which multi-jurisdictional, multidisciplinary input is provided from all regions of the jurisdiction, in-

cluding any high-threat urban areas located in the jurisdiction, and the process for continuing to incorporate such input.

**(g) Definitions**

In this section:

**(1) Interoperable communications**

The term “interoperable communications” means the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, and video with one another on demand, in real time, as necessary.

**(2) Emergency response providers**

The term “emergency response providers” has the meaning that term has under section 101 of this title.

**(h) Omitted**

**(i) Sense of Congress regarding interoperable communications**

**(1) Finding**

The Congress finds that—

(A) many first responders working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(B) their inability to do so threatens the public’s safety and may result in unnecessary loss of lives and property.

**(2) Sense of Congress**

It is the sense of Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the first responder community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national, voluntary consensus standards for interoperability.

(Pub. L. 108–458, title VII, §7303, Dec. 17, 2004, 118 Stat. 3843; Pub. L. 110–53, title III, §301(c), Aug. 3, 2007, 121 Stat. 299.)

REFERENCES IN TEXT

Section 510 of the Homeland Security Act of 2002, as added by subsection (d), referred to in subsec. (a)(2)(B)(ii), means section 510 of Pub. L. 107–296, which was added by Pub. L. 108–458, title VII, §7303(d), Dec. 17, 2004, 118 Stat. 3844, and was classified to section 321 of this title, prior to repeal by Pub. L. 109–295, title VI, §611(5), Oct. 4, 2006, 120 Stat. 1395. See Prior Provisions note set out under section 321 of this title.

CODIFICATION

Section is comprised of section 7303 of Pub. L. 108–458. Subsec. (d) of section 7303 of Pub. L. 108–458 enacted section 321 of this title. Subsec. (h) of section 7303 of Pub. L. 108–458 amended sections 238 and 314 of this title.

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

Section 301(c) of Pub. L. 110–53, which directed the amendment of section 7303 of the “Intelligence Reform

and Terrorist Prevention Act of 2004”, was executed to this section, which is section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004, to reflect the probable intent of Congress. See 2007 Amendment notes below.

AMENDMENTS

2007—Subsec. (f)(6), (7). Pub. L. 110–53, §301(c)(1), added pars. (6) and (7). See Codification note above.

Subsec. (g)(1). Pub. L. 110–53, §301(c)(2), substituted “and video” for “or video”. See Codification note above.

EFFECTIVE DATE

Pub. L. 108–458, title VII, §7308, Dec. 17, 2004, 118 Stat. 3849, provided that: “Notwithstanding any other provision of this Act [see Tables for classification], this subtitle [subtitle C (§§7301–7308) of title VII of Pub. L. 108–458, enacting this section and section 321 of this title, amending sections 238 and 312 of this title, and enacting provisions set out as notes under this section and section 5196 of Title 42, The Public Health and Welfare] shall take effect on the date of enactment of this Act [Dec. 17, 2004].”

TRANSFER OF FUNCTIONS

For transfer of the SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards, to the Assistant Director for Emergency Communications, see section 571(d)(1) of this title.

DEPARTMENT OF HOMELAND SECURITY INTEROPERABLE COMMUNICATIONS

Pub. L. 114–120, title II, §212, Feb. 8, 2016, 130 Stat. 42, provided that:

“(a) IN GENERAL.—If the Secretary of Homeland Security determines that there are at least two communications systems described under paragraph (1)(B) and certified under paragraph (2), the Secretary shall establish and carry out a pilot program across not less than three components of the Department of Homeland Security to assess the effectiveness of a communications system that—

“(1) provides for—

“(A) multiagency collaboration and interoperability; and

“(B) wide-area, secure, and peer-invitation- and acceptance-based multimedia communications;

“(2) is certified by the Department of Defense Joint Interoperability Test Center; and

“(3) is composed of commercially available, off-the-shelf technology.

“(b) ASSESSMENT.—Not later than 6 months after the date on which the pilot program is completed, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee [on] Homeland Security and Governmental Affairs of the Senate an assessment of the pilot program, including the impacts of the program with respect to interagency and Coast Guard response capabilities.

“(c) STRATEGY.—The pilot program shall be consistent with the strategy required by the Department of Homeland Security Interoperable Communications Act (Public Law 114–29) [set out below].

“(d) TIMING.—The pilot program shall commence within 90 days after the date of the enactment of this Act [Feb. 8, 2016] or within 60 days after the completion of the strategy required by the Department of Homeland Security Interoperable Communications Act (Public Law 114–29), whichever is later.”

Pub. L. 114–29, July 6, 2015, 129 Stat. 421, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Department of Homeland Security Interoperable Communications Act’ or the ‘DHS Interoperable Communications Act’.

## “SEC. 2. DEFINITIONS.

“In this Act—

“(1) the term ‘Department’ means the Department of Homeland Security;

“(2) the term ‘interoperable communications’ has the meaning given that term in section 701(d) [now 701(e)] of the Homeland Security Act of 2002 [6 U.S.C. 341(e)], as added by section 3; and

“(3) the term ‘Under Secretary for Management’ means the Under Secretary for Management of the Department of Homeland Security.

## “SEC. 3. INCLUSION OF INTEROPERABLE COMMUNICATIONS CAPABILITIES IN RESPONSIBILITIES OF UNDER SECRETARY FOR MANAGEMENT.

[Amended section 341 of this title.]

## “SEC. 4. STRATEGY.

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [July 6, 2015], the Under Secretary for Management shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a strategy, which shall be updated as necessary, for achieving and maintaining interoperable communications among the components of the Department, including for daily operations, planned events, and emergencies, with corresponding milestones, that includes the following:

“(1) An assessment of interoperability gaps in radio communications among the components of the Department, as of the date of enactment of this Act.

“(2) Information on efforts and activities, including current and planned policies, directives, and training, of the Department since November 1, 2012, to achieve and maintain interoperable communications among the components of the Department, and planned efforts and activities of the Department to achieve and maintain such interoperable communications.

“(3) An assessment of obstacles and challenges to achieving and maintaining interoperable communications among the components of the Department.

“(4) Information on, and an assessment of, the adequacy of mechanisms available to the Under Secretary for Management to enforce and compel compliance with interoperable communications policies and directives of the Department.

“(5) Guidance provided to the components of the Department to implement interoperable communications policies and directives of the Department.

“(6) The total amount of funds expended by the Department since November 1, 2012, and projected future expenditures, to achieve interoperable communications, including on equipment, infrastructure, and maintenance.

“(7) Dates upon which Department-wide interoperability is projected to be achieved for voice, data, and video communications, respectively, and interim milestones that correspond to the achievement of each such mode of communication.

“(b) SUPPLEMENTARY MATERIAL.—Together with the strategy required under subsection (a), the Under Secretary for Management shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate information on—

“(1) any intra-agency effort or task force that has been delegated certain responsibilities by the Under Secretary for Management relating to achieving and maintaining interoperable communications among the components of the Department by the dates referred to in subsection (a)(7); and

“(2) who, within each such component, is responsible for implementing policies and directives issued by the Under Secretary for Management to so achieve and maintain such interoperable communications.

## “SEC. 5. REPORT.

“Not later than 100 days after the date on which the strategy required under section 4(a) is submitted, and

every 2 years thereafter for 6 years, the Under Secretary for Management shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of efforts to implement the strategy required under section 4(a), including the following:

“(1) Progress on each interim milestone referred to in section 4(a)(7) toward achieving and maintaining interoperable communications among the components of the Department.

“(2) Information on any policies, directives, guidance, and training established by the Under Secretary for Management.

“(3) An assessment of the level of compliance, adoption, and participation among the components of the Department with the policies, directives, guidance, and training established by the Under Secretary for Management to achieve and maintain interoperable communications among the components.

“(4) Information on any additional resources or authorities needed by the Under Secretary for Management.

## “SEC. 6. APPLICABILITY.

“Sections 4 and 5 shall only apply with respect to the interoperable communications capabilities within the Department and components of the Department to communicate within the Department.”

## CROSS BORDER INTEROPERABILITY REPORTS

Pub. L. 110-53, title XXII, §2203, Aug. 3, 2007, 121 Stat. 541, provided that:

“(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Aug. 3, 2007], the Federal Communications Commission, in consultation with the Department of Homeland Security’s Office of Emergency Communications [now Emergency Communications Division], the Office of Management of [sic] Budget, and the Department of State shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on—

“(1) the status of the mechanism established by the President under section 7303(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(c)) for coordinating cross border interoperability issues between—

“(A) the United States and Canada; and

“(B) the United States and Mexico;

“(2) the status of treaty negotiations with Canada and Mexico regarding the coordination of the rebanding of 800 megahertz radios, as required under the final rule of the Federal Communication Commission in the ‘Private Land Mobile Services; 800 MHz Public Safety Interface Proceeding’ (WT Docket No. 02-55; ET Docket No. 00-258; ET Docket No. 95-18, RM-9498; RM-10024; FCC 04-168) including the status of any outstanding issues in the negotiations between—

“(A) the United States and Canada; and

“(B) the United States and Mexico;

“(3) communications between the Commission and the Department of State over possible amendments to the bilateral legal agreements and protocols that govern the coordination process for license applications seeking to use channels and frequencies above Line A;

“(4) the annual rejection rate for the last 5 years by the United States of applications for new channels and frequencies by Canadian private and public entities; and

“(5) any additional procedures and mechanisms that can be taken by the Commission to decrease the rejection rate for applications by United States private and public entities seeking licenses to use channels and frequencies above Line A.

“(b) UPDATED REPORTS TO BE FILED ON THE STATUS OF TREATY OF [SIC] NEGOTIATIONS.—The Federal Communications Commission, in conjunction with the Depart-

ment of Homeland Security, the Office of Management of Budget, and the Department of State shall continually provide updated reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of treaty negotiations under subsection (a)(2) until the appropriate United States treaty has been revised with each of—

- “(1) Canada; and
- “(2) Mexico.

“(c) INTERNATIONAL NEGOTIATIONS TO REMEDY SITUATION.—Not later than 90 days after the date of enactment of this Act [Aug. 3, 2007], the Secretary of the Department of State shall report to Congress on—

- “(1) the current process for considering applications by Canada for frequencies and channels by United States communities above Line A;
- “(2) the status of current negotiations to reform and revise such process;
- “(3) the estimated date of conclusion for such negotiations;
- “(4) whether the current process allows for automatic denials or dismissals of initial applications by the Government of Canada, and whether such denials or dismissals are currently occurring; and
- “(5) communications between the Department of State and the Federal Communications Commission pursuant to subsection (a)(3).”

#### SUBMISSION OF REPORTS TO APPROPRIATE CONGRESSIONAL COMMITTEES

Pub. L. 110–53, title XXII, § 2205, Aug. 3, 2007, 121 Stat. 543, provided that: “In addition to the committees specifically enumerated to receive reports under this title [enacting provisions set out as note under this section, section 701 of this title, and section 247d–3a of Title 42, The Public Health and Welfare, and amending provisions set out as a note under section 309 of Title 47, Telecommunications], any report transmitted under the provisions of this title shall also be transmitted to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2))).”

#### REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS

Pub. L. 108–458, title VII, § 7304, Dec. 17, 2004, 118 Stat. 3847, directed the Secretary of Homeland Security, not later than 90 days after Dec. 17, 2004, to establish not fewer than 2 pilot projects in high threat urban areas or regions likely to implement a national model strategic plan in order to develop a regional strategic plan to foster interagency communication and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security, and to submit to Congress an interim report regarding the progress of the interagency communications pilot projects 6 months after Dec. 17, 2004, and a final report 18 months after Dec. 17, 2004.

### § 195. Office for Interoperability and Compatibility

#### (a) Clarification of responsibilities

The Director of the Office for Interoperability and Compatibility shall—

- (1) assist the Secretary in developing and implementing the science and technology aspects of the program described in subparagraphs (D), (E), (F), and (G) of section 194(a)(1) of this title;
- (2) in coordination with the Federal Communications Commission, the National Institute of Standards and Technology, and other Federal departments and agencies with responsibility for standards, support the creation of national voluntary consensus standards for interoperable emergency communications;

(3) establish a comprehensive research, development, testing, and evaluation program for improving interoperable emergency communications;

(4) establish, in coordination with the Director for Emergency Communications,<sup>1</sup> requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment purchased using homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system;

(5) carry out the Department’s responsibilities and authorities relating to research, development, testing, evaluation, or standards-related elements of the SAFECOM Program;

(6) evaluate and assess new technology in real-world environments to achieve interoperable emergency communications capabilities;

(7) encourage more efficient use of existing resources, including equipment, to achieve interoperable emergency communications capabilities;

(8) test public safety communications systems that are less prone to failure, support new nonvoice services, use spectrum more efficiently, and cost less than existing systems;

(9) coordinate with the private sector to develop solutions to improve emergency communications capabilities and achieve interoperable emergency communications capabilities; and

(10) conduct pilot projects, in coordination with the Director for Emergency Communications,<sup>1</sup> to test and demonstrate technologies, including data and video, that enhance—

(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters; and

(B) interoperable emergency communications capabilities.

#### (b) Coordination

The Director of the Office for Interoperability and Compatibility shall coordinate with the Director for Emergency Communications<sup>1</sup> with respect to the SAFECOM program.

#### (c) Sufficiency of resources

The Secretary shall provide the Office for Interoperability and Compatibility the resources and staff necessary to carry out the responsibilities under this section.

(Pub. L. 107–296, title III, § 314, as added Pub. L. 109–295, title VI, § 672(a), Oct. 4, 2006, 120 Stat. 1441.)

#### CHANGE OF NAME

Reference to Director for Emergency Communications deemed to be a reference to Assistant Director for Emergency Communications, see section 2(c)(2) of Pub. L. 115–278, set out as a note under section 571 of this title.

<sup>1</sup> See Change of Name note below.