

(iii) citizens of the United States abroad. (July 26, 1947, ch. 343, title I, § 120, as added Pub. L. 116-92, div. E, title LIII, § 5321(a), Dec. 20, 2019, 133 Stat. 2126; amended Pub. L. 116-260, div. W, title IV, § 405(b), title VI, § 618, Dec. 27, 2020, 134 Stat. 2380, 2400.)

#### AMENDMENTS

2020—Subsec. (c)(4). Pub. L. 116-260, § 405(b), substituted “intelligence indications” for “security indicators”.

Subsecs. (d), (e). Pub. L. 116-260, § 618, added subsec. (d) and redesignated former subsec. (d) as (e) relating to sunset of Council.

#### CHANGE OF NAME

Under Secretary of Defense for Intelligence redesignated and references deemed to refer to Under Secretary of Defense for Intelligence and Security, see section 1621(a) of Pub. L. 116-92, set out as a note under section 137 of Title 10, Armed Forces.

#### INITIAL APPOINTMENTS

Pub. L. 116-92, div. E, title LIII, § 5321(c), Dec. 20, 2019, 133 Stat. 2129, provided that: “Not later than 90 days after the date of the enactment of this Act [Dec. 20, 2019], the Director of National Intelligence shall appoint the members of the Council under section 120 of the National Security Act of 1947 [50 U.S.C. 3060], as added by subsection (a).”

### SUBCHAPTER II—MISCELLANEOUS PROVISIONS

#### § 3071. National Security Agency voluntary separation

##### (a) Short title

This section may be cited as the “National Security Agency Voluntary Separation Act”.

##### (b) Definitions

For purposes of this section—

(1) the term “Director” means the Director of the National Security Agency; and

(2) the term “employee” means an employee of the National Security Agency, serving under an appointment without time limitation, who has been currently employed by the National Security Agency for a continuous period of at least 12 months prior to the effective date of the program established under subsection (c), except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5 or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

##### (c) Establishment of program

Notwithstanding any other provision of law, the Director, in his sole discretion, may establish a program under which employees may, after October 1, 2000, be eligible for early retirement, offered separation pay to separate from service voluntarily, or both.

##### (d) Early retirement

An employee who—

(1) is at least 50 years of age and has completed 20 years of service; or

(2) has at least 25 years of service,

may, pursuant to regulations promulgated under this section, apply and be retired from the National Security Agency and receive benefits in accordance with chapter 83 or 84 of title 5 if the employee has not less than 10 years of service with the National Security Agency.

##### (e) Amount of separation pay and treatment for other purposes

###### (1) Amount

Separation pay shall be paid in a lump sum and shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5 if the employee were entitled to payment under such section; or

(B) \$25,000.

###### (2) Treatment

Separation pay shall not—

(A) be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(B) be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595 of title 5 based on any other separation.

##### (f) Reemployment restrictions

An employee who receives separation pay under such program may not be reemployed by the National Security Agency for the 12-month period beginning on the effective date of the employee’s separation. An employee who receives separation pay under this section on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the National Security Agency. If the employment is with an Executive agency (as defined by section 105 of title 5), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

##### (g) Bar on certain employment

###### (1) Bar

An employee may not be separated from service under this section unless the employee agrees that the employee will not—

(A) act as agent or attorney for, or otherwise represent, any other person (except the

United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to the National Security Agency; or

(B) participate in any manner in the award, modification, or extension of any contract for property or services with the National Security Agency,

during the 12-month period beginning on the effective date of the employee's separation from service.

**(2) Penalty**

An employee who violates an agreement under this subsection shall be liable to the United States in the amount of the separation pay paid to the employee pursuant to this section multiplied by the proportion of the 12-month period during which the employee was in violation of the agreement.

**(h) Limitations**

Under this program, early retirement and separation pay may be offered only—

- (1) with the prior approval of the Director;
- (2) for the period specified by the Director; and
- (3) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Director may require.

**(i) Regulations**

Before an employee may be eligible for early retirement, separation pay, or both, under this section, the Director shall prescribe such regulations as may be necessary to carry out this section.

**(j) Notification of exercise of authority**

The Director may not make an offer of early retirement, separation pay, or both, pursuant to this section until 15 days after submitting to the congressional intelligence committees a report describing the occupational groups or geographic locations, or other similar limitations or conditions, required by the Director under subsection (h), and includes<sup>1</sup> the proposed regulations issued pursuant to subsection (i).

**(k) Remittance of funds**

In addition to any other payment that is required to be made under subchapter III of chapter 83 or chapter 84 of title 5, the National Security Agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, an amount equal to 15 percent of the final basic pay of each employee to whom a voluntary separation payment has been or is to be paid under this section. The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).

(July 26, 1947, ch. 343, title III, §301, as added Pub. L. 106-567, title III, §304(a), Dec. 27, 2000, 114 Stat. 2836; amended Pub. L. 107-306, title III,

§353(b)(2)(A), title VIII, §841(b), Nov. 27, 2002, 116 Stat. 2402, 2431.)

REFERENCES IN TEXT

Section 4(a) of the Federal Workforce Restructuring Act of 1994, referred to in subsec. (k), is section 4(a) of Pub. L. 103-226, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 409a of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 301 of act July 26, 1947, ch. 343, title III, 61 Stat. 507; Apr. 2, 1949, ch. 47, §2, 63 Stat. 31; Aug. 10, 1949, ch. 412, §10(a), 63 Stat. 585, was classified to sections 171b and 171c-1 of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 632.

AMENDMENTS

2002—Subsec. (j). Pub. L. 107-306, §841(b), substituted “Notification of exercise of authority” for “Reporting requirements” in subsec. heading and struck out “(1) NOTIFICATION.—” before “The Director may” and par. (2) which read as follows:

“(2) ANNUAL REPORT.—The Director shall submit to the President and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate an annual report on the effectiveness and costs of carrying out this section.”

Pub. L. 107-306, §353(b)(2)(A), substituted “congressional intelligence committees” for “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate”.

**§3072. Authority of Federal Bureau of Investigation to award personal services contracts**

**(a) In general**

The Director of the Federal Bureau of Investigation may enter into personal services contracts if the personal services to be provided under such contracts directly support the intelligence or counterintelligence missions of the Federal Bureau of Investigation.

**(b) Inapplicability of certain requirements**

Contracts under subsection (a) shall not be subject to the annuity offset requirements of sections 8344 and 8468 of title 5, the requirements of section 3109 of title 5, or any law or regulation requiring competitive contracting.

**(c) Contract to be appropriate means of securing services**

The Chief Contracting Officer of the Federal Bureau of Investigation shall ensure that each personal services contract entered into by the Director under this section is the appropriate means of securing the services to be provided under such contract.

(July 26, 1947, ch. 343, title III, §302, as added Pub. L. 108-177, title III, §311(a)(1), Dec. 13, 2003, 117 Stat. 2605.)

CODIFICATION

Section was formerly classified to section 409b of this title prior to editorial reclassification and renumbering as this section.

<sup>1</sup> So in original. Probably should be “including”.