

CONGRESSIONAL FINDINGS

Pub. L. 108-177, title III, §312(a), Dec. 13, 2003, 117 Stat. 2606, provided that: “Congress makes the following findings:

“(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to address funding shortfalls caused by significant increases in the costs of acquisition of major systems by the intelligence community.

“(2) While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community to underestimate the costs of such acquisition, particularly in the preliminary stages of development and production.

“(3) Decisions by Congress to fund the acquisition of major systems by the intelligence community rely significantly upon initial estimates of the affordability of acquiring such major systems and occur within a context in which funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of major systems place significant burdens on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

“(4) Independent cost estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

“(5) Recognizing the benefits associated with independent cost estimates for the acquisition of major systems, the Secretary of Defense has built upon the statutory requirement in [former] section 2434 of title 10, United States Code, to develop and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

“(6) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.”

LIMITATIONS ON MAJOR SYSTEM PROCUREMENT, ACQUISITION, AND DEVELOPMENT

Pub. L. 108-177, title III, §312(d), Dec. 13, 2003, 117 Stat. 2609, provided that:

“(1)(A) For each major system for which funds have been authorized for a fiscal year before fiscal year 2005, or for which funds are sought in the budget of the President for fiscal year 2005, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and for which no independent cost estimate has been provided to Congress, no contract, or option to contract, for the procurement or acquisition of such major system may be entered into, or option to contract be exercised, before the date of the enactment of an Act to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government.

“(B) Subparagraph (A) shall not affect any contract for procurement or acquisition that was entered into before the date of the enactment of this Act [Dec. 13, 2003].

“(2) Commencing as of the date of the submittal to Congress of the budget of the President for fiscal year 2006 pursuant to section 1105(a) of title 31, United States Code, no funds may be obligated or expended for the development or procurement of a major system until the President has complied with the requirements of section 506A of the National Security Act of 1947 (as added by subsection (b)) [50 U.S.C. 3097] with respect to such major system.

“(3) In this subsection, the terms ‘independent cost estimate’ and ‘major system’ have the meaning given

such terms in subsection (e) of section 506A of the National Security Act of 1947 (as so added) [50 U.S.C. 3097(e)].”

§ 3098. Annual personnel level assessments for the intelligence community**(a) Requirement to provide**

The Director of National Intelligence shall, in consultation with the head of each element of the intelligence community, prepare an annual personnel level assessment for such element that assesses the personnel levels for such element for the fiscal year following the fiscal year in which the assessment is submitted.

(b) Schedule

Each assessment required by subsection (a) shall be submitted to the congressional intelligence committees each year at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of title 31.

(c) Contents

Each assessment required by subsection (a) submitted during a fiscal year shall contain the following information for the element of the intelligence community concerned:

(1) The budget submission for personnel costs for the upcoming fiscal year.

(2) The dollar and percentage increase or decrease of such costs as compared to the personnel costs of the current fiscal year.

(3) The dollar and percentage increase or decrease of such costs as compared to the personnel costs during the prior 5 fiscal years.

(4) The number of full-time equivalent positions that is the basis for which personnel funds are requested for the upcoming fiscal year.

(5) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions of the current fiscal year.

(6) The numerical and percentage increase or decrease of the number referred to in paragraph (4) as compared to the number of full-time equivalent positions during the prior 5 fiscal years.

(7) The best estimate of the number and costs of core contract personnel to be funded by the element for the upcoming fiscal year.

(8) The numerical and percentage increase or decrease of such costs of core contract personnel as compared to the best estimate of the costs of core contract personnel of the current fiscal year.

(9) The numerical and percentage increase or decrease of such number and such costs of core contract personnel as compared to the number and cost of core contract personnel during the prior 5 fiscal years.

(10) A justification for the requested personnel and core contract personnel levels.

(11) The best estimate of the number of intelligence collectors and analysts employed by each element of the intelligence community.

(12) The best estimate of the number of intelligence collectors and analysts contracted by each element of the intelligence commu-

nity and a description of the functions performed by such contractors.

(13) A statement by the Director of National Intelligence that, based on current and projected funding, the element concerned will have sufficient—

(A) internal infrastructure to support the requested personnel and core contract personnel levels;

(B) training resources to support the requested personnel levels; and

(C) funding to support the administrative and operational activities of the requested personnel levels.

(July 26, 1947, ch. 343, title V, § 506B, as added Pub. L. 111-259, title III, § 305(a), Oct. 7, 2010, 124 Stat. 2659; amended Pub. L. 113-293, title III, § 327, Dec. 19, 2014, 128 Stat. 4006.)

CODIFICATION

Section was formerly classified to section 415a-4 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (c)(11). Pub. L. 113-293, § 327(1), struck out “or contracted” after “employed”.

Subsec. (c)(12), (13). Pub. L. 113-293, § 327(2), (3), added par. (12) and redesignated former par. (12) as (13).

PERSONNEL INFORMATION NOTIFICATION POLICY BY THE DIRECTOR OF NATIONAL INTELLIGENCE

Pub. L. 114-113, div. M, title III, § 308, Dec. 18, 2015, 129 Stat. 2917, provided that:

“(a) **DIRECTIVE REQUIRED.**—The Director of National Intelligence shall issue a directive containing a written policy for the timely notification to the congressional intelligence committees of the identities of individuals occupying senior level positions within the intelligence community.

“(b) **SENIOR LEVEL POSITION.**—In identifying positions that are senior level positions in the intelligence community for purposes of the directive required under subsection (a), the Director of National Intelligence shall consider whether a position—

“(1) constitutes the head of an entity or a significant component within an agency;

“(2) is involved in the management or oversight of matters of significant import to the leadership of an entity of the intelligence community;

“(3) provides significant responsibility on behalf of the intelligence community;

“(4) requires the management of a significant number of personnel or funds;

“(5) requires responsibility management or oversight of sensitive intelligence activities; and

“(6) is held by an individual designated as a senior intelligence management official as such term is defined in section 368(a)(6) of the Intelligence Authorization Act for Fiscal Year 2010 (Public Law 111-259; 50 U.S.C. 404i-1 [now 50 U.S.C. 3051] note).

“(c) **NOTIFICATION.**—The Director shall ensure that each notification under the directive issued under subsection (a) includes each of the following:

“(1) The name of the individual occupying the position.

“(2) Any previous senior level position held by the individual, if applicable, or the position held by the individual immediately prior to the appointment.

“(3) The position to be occupied by the individual.

“(4) Any other information the Director determines appropriate.

“(d) **RELATIONSHIP TO OTHER LAWS.**—The directive issued under subsection (a) and any amendment to such directive shall be consistent with the provisions of the National Security Act of 1947 (50 U.S.C. 401 [now 50 U.S.C. 3001] et seq.).

“(e) **SUBMISSION.**—Not later than 90 days after the date of the enactment of this Act [Dec. 18, 2015], the Director shall submit to the congressional intelligence committees the directive issued under subsection (a).”

[For definitions of “congressional intelligence committees” and “intelligence community” as used in section 308 of div. M of Pub. L. 114-113, set out above, see section 2 of div. M of Pub. L. 114-113, set out as a note under section 3003 of this title.]

IMPLEMENTATION

Pub. L. 111-259, title III, § 305(b), Oct. 7, 2010, 124 Stat. 2661, provided that: “The first assessment required to be submitted under section 506B(b) of the National Security Act of 1947 [50 U.S.C. 3098(b)], as added by subsection (a), shall be submitted to the congressional intelligence committees at the time that the President submits to Congress the budget for fiscal year 2012 pursuant to section 1105 of title 31, United States Code.”

[For definition of “congressional intelligence committees” as used in section 305(b) of Pub. L. 111-259, set out above, see section 2 of Pub. L. 111-259, set out as a note under section 3003 of this title.]

§ 3099. Vulnerability assessments of major systems

(a) Initial vulnerability assessments

(1)(A) Except as provided in subparagraph (B), the Director of National Intelligence shall conduct and submit to the congressional intelligence committees an initial vulnerability assessment for each major system and its significant items of supply—

(i) except as provided in clause (ii), prior to the completion of Milestone B or an equivalent acquisition decision for the major system; or

(ii) prior to the date that is 1 year after October 7, 2010, in the case of a major system for which Milestone B or an equivalent acquisition decision—

(I) was completed prior to such date; or

(II) is completed on a date during the 180-day period following such date.

(B) The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (ii) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of the submission date under this subparagraph and provides a justification for such extension.

(C) The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

(i) identify vulnerabilities;

(ii) define exploitation potential;

(iii) examine the system’s potential effectiveness;

(iv) determine overall vulnerability; and

(v) make recommendations for risk reduction.

(2) If an initial vulnerability assessment for a major system is not submitted to the congressional intelligence committees as required by paragraph (1), funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds