

priated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 116-93, div. A, title VIII, § 8038, Dec. 20, 2019, 133 Stat. 2344.

Pub. L. 115-245, div. A, title VIII, § 8036, Sept. 28, 2018, 132 Stat. 3008.

Pub. L. 115-141, div. C, title VIII, § 8035, Mar. 23, 2018, 132 Stat. 471.

Pub. L. 115-31, div. C, title VIII, § 8036, May 5, 2017, 131 Stat. 254.

Pub. L. 114-113, div. C, title VIII, § 8035, Dec. 18, 2015, 129 Stat. 2358.

Pub. L. 113-235, div. C, title VIII, § 8033, Dec. 16, 2014, 128 Stat. 2260.

Pub. L. 113-76, div. C, title VIII, § 8032, Jan. 17, 2014, 128 Stat. 111.

Pub. L. 113-6, div. C, title VIII, § 8032, Mar. 26, 2013, 127 Stat. 304.

Pub. L. 112-74, div. A, title VIII, § 8032, Dec. 23, 2011, 125 Stat. 812.

Pub. L. 112-10, div. A, title VIII, § 8033, Apr. 15, 2011, 125 Stat. 64.

Pub. L. 111-118, div. A, title VIII, § 8035, Dec. 19, 2009, 123 Stat. 3436.

Pub. L. 110-329, div. C, title VIII, § 8035, Sept. 30, 2008, 122 Stat. 3629.

Pub. L. 110-116, div. A, title VIII, § 8035, Nov. 13, 2007, 121 Stat. 1322.

Pub. L. 109-289, div. A, title VIII, § 8033, Sept. 29, 2006, 120 Stat. 1281.

Pub. L. 109-148, div. A, title VIII, § 8038, Dec. 30, 2005, 119 Stat. 2707.

Pub. L. 108-287, title VIII, § 8042, Aug. 5, 2004, 118 Stat. 979.

Pub. L. 108-87, title VIII, § 8042, Sept. 30, 2003, 117 Stat. 1081.

Pub. L. 107-248, title VIII, § 8042, Oct. 23, 2002, 116 Stat. 1546.

Pub. L. 107-117, div. A, title VIII, § 8045, Jan. 10, 2002, 115 Stat. 2257.

Pub. L. 106-259, title VIII, § 8045, Aug. 9, 2000, 114 Stat. 684.

Pub. L. 106-79, title VIII, § 8048, Oct. 25, 1999, 113 Stat. 1241.

Pub. L. 105-262, title VIII, § 8048, Oct. 17, 1998, 112 Stat. 2307.

§ 3522. Detail of employees

The Director may—

(1) detail any personnel of the Agency on a reimbursable basis indefinitely to the National Reconnaissance Office without regard to any limitation under law on the duration of details of Federal Government personnel; and

(2) hire personnel for the purpose of any detail under paragraph (1).

(June 20, 1949, ch. 227, § 22, as added Pub. L. 106-567, title IV, § 404, Dec. 27, 2000, 114 Stat. 2848.)

CODIFICATION

Section was formerly classified to section 403v of this title prior to editorial reclassification and renumbering as this section.

§ 3523. Intelligence operations and cover enhancement authority

(a) Definitions

In this section—

(1) the term “designated employee” means an employee designated by the Director of the

Central Intelligence Agency under subsection (b); and

(2) the term “Federal retirement system” includes the Central Intelligence Agency Retirement and Disability System, and the Federal Employees’ Retirement System (including the Thrift Savings Plan).

(b) In general

(1) Authority

Notwithstanding any other provision of law, the Director of the Central Intelligence Agency may exercise the authorities under this section in order to—

(A) protect from unauthorized disclosure—

(i) intelligence operations;

(ii) the identities of undercover intelligence officers;

(iii) intelligence sources and methods; or

(iv) intelligence cover mechanisms; or

(B) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency.

(2) Designation of employees

The Director of the Central Intelligence Agency may designate any employee of the Agency who is under nonofficial cover to be an employee to whom this section applies. Such designation may be made with respect to any or all authorities exercised under this section.

(c) Compensation

The Director of the Central Intelligence Agency may pay a designated employee salary, allowances, and other benefits in an amount and in a manner consistent with the nonofficial cover of that employee, without regard to any limitation that is otherwise applicable to a Federal employee. A designated employee may accept, utilize, and, to the extent authorized by regulations prescribed under subsection (i), retain any salary, allowances, and other benefits provided under this section.

(d) Retirement benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a nonofficial cover employee retirement system for designated employees (and the spouse, former spouses, and survivors of such designated employees). A designated employee may not participate in the retirement system established under this paragraph and another Federal retirement system at the same time.

(2) Conversion to other Federal retirement system

(A) In general

A designated employee participating in the retirement system established under paragraph (1) may convert to coverage under the Federal retirement system which would otherwise apply to that employee at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee’s participation in the retire-

ment system established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (i) intelligence operations;
- (ii) the identities of undercover intelligence officers;
- (iii) intelligence sources and methods; or
- (iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

(i) all periods of service under the retirement system established under this subsection shall be deemed periods of creditable service under the applicable Federal retirement system;

(ii) the Director of the Central Intelligence Agency shall transmit an amount for deposit in any applicable fund of that Federal retirement system that—

(I) is necessary to cover all employee and agency contributions including—

(aa) interest as determined by the head of the agency administering the Federal retirement system into which the employee is converting; or

(bb) in the case of an employee converting into the Federal Employees' Retirement System, interest as determined under section 8334(e) of title 5; and

(II) ensures that such conversion does not result in any unfunded liability to that fund; and

(iii) in the case of a designated employee who participated in an employee investment retirement system established under paragraph (1) and is converted to coverage under subchapter III of chapter 84 of title 5, the Director of the Central Intelligence Agency may transmit any or all amounts of that designated employee in that employee investment retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

(C) Transmitted amounts

(i) In general

Amounts described under subparagraph (B)(ii) shall be paid from the fund or appropriation used to pay the designated employee.

(ii) Offset

The Director of the Central Intelligence Agency may use amounts contributed by the designated employee to a retirement system established under paragraph (1) to offset amounts paid under clause (i).

(D) Records

The Director of the Central Intelligence Agency shall transmit all necessary records relating to a designated employee who converts to a Federal retirement system under this paragraph (including records relating to periods of service which are deemed to be periods of creditable service under subparagraph (B)) to the head of the agency administering that Federal retirement system.

(e) Health insurance benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a non-official cover employee health insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the health insurance program established under this paragraph and the program under chapter 89 of title 5 at the same time.

(2) Conversion to Federal employees health benefits program

(A) In general

A designated employee participating in the health insurance program established under paragraph (1) may convert to coverage under the program under chapter 89 of title 5 at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (i) intelligence operations;
- (ii) the identities of undercover intelligence officers;
- (iii) intelligence sources and methods; or
- (iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

(i) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5;

(ii) any requirement of prior enrollment in a health benefits plan under chapter 89 of that title for continuation of coverage purposes shall not apply;

(iii) the employee shall be deemed to have had coverage under chapter 89 of that title from the first opportunity to enroll for purposes of continuing coverage as an annuitant; and

(iv) the Director of the Central Intelligence Agency shall transmit an amount for deposit in the Employees' Health Benefits Fund that is necessary to cover any costs of such conversion.

(C) Transmitted amounts

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

(f) Life insurance benefits

(1) In general

The Director of the Central Intelligence Agency may establish and administer a non-official cover employee life insurance program for designated employees (and the family of such designated employees). A designated employee may not participate in the life insurance program established under this paragraph and the program under chapter 87 of title 5 at the same time.

(2) Conversion to Federal employees group life insurance program

(A) In general

A designated employee participating in the life insurance program established under paragraph (1) may convert to coverage under the program under chapter 87 of title 5 at any appropriate time determined by the Director of the Central Intelligence Agency (including at the time of separation of service by reason of retirement), if the Director of the Central Intelligence Agency determines that the employee's participation in the life insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

- (i) intelligence operations;
- (ii) the identities of undercover intelligence officers;
- (iii) intelligence sources and methods; or
- (iv) intelligence cover mechanisms.

(B) Conversion treatment

Upon a conversion under this paragraph—

- (i) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5;
- (ii) any requirement of prior enrollment in a life insurance program under chapter 87 of that title for continuation of coverage purposes shall not apply;
- (iii) the employee shall be deemed to have had coverage under chapter 87 of that title for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage as an annuitant; and
- (iv) the Director of the Central Intelligence Agency shall transmit an amount for deposit in the Employees' Life Insurance Fund that is necessary to cover any costs of such conversion.

(C) Transmitted amounts

Any amount described under subparagraph (B)(iv) shall be paid from the fund or appropriation used to pay the designated employee.

(g) Exemption from certain requirements

The Director of the Central Intelligence Agency may exempt a designated employee from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Director of the Central Intelligence Agency determines—

- (1) would be inconsistent with the nonofficial cover of that employee; and
- (2) could expose that employee to detection as a Federal employee.

(h) Taxation and social security

(1) In general

Notwithstanding any other provision of law, a designated employee—

- (A) shall file a Federal or State tax return as if that employee is not a Federal employee and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that employee was not a Federal

employee, if the Director of the Central Intelligence Agency determines that taking any action under this paragraph is necessary to—

- (i) protect from unauthorized disclosure—
 - (I) intelligence operations;
 - (II) the identities of undercover intelligence officers;
 - (III) intelligence sources and methods;
- or
- (IV) intelligence cover mechanisms; and
- (ii) meet the special requirements of work related to collection of foreign intelligence or other authorized activities of the Agency; and

(B) shall receive social security benefits based on the social security contributions made.

(2) Internal Revenue Service review

The Director of the Central Intelligence Agency shall establish procedures to carry out this subsection. The procedures shall be subject to periodic review by the Internal Revenue Service.

(i) Regulations

The Director of the Central Intelligence Agency shall prescribe regulations to carry out this section. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee designated under this section may retain does not significantly exceed, except to the extent determined by the Director of the Central Intelligence Agency to be necessary to exercise the authority in subsection (b), the combination of salary, allowances, and benefits otherwise received by Federal employees not designated under this section.

(j) Finality of decisions

Any determinations authorized by this section to be made by the Director of the Central Intelligence Agency or the Director's designee shall be final and conclusive and shall not be subject to review by any court.

(k) Subsequently enacted laws

No law enacted after the effective date of this section shall affect the authorities and provisions of this section unless such law specifically refers to this section.

(June 20, 1949, ch. 227, §23, as added Pub. L. 108-487, title IV, §402, Dec. 23, 2004, 118 Stat. 3946.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (k), is the date of enactment of Pub. L. 108-487, which was approved December 23, 2004. See section 801 of Pub. L. 108-487, set out as an Effective Date of 2004 Amendments note under section 2656f of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 403w of this title prior to editorial reclassification and renumbering as this section.

§ 3524. Support for the Associate Director of the Central Intelligence Agency for Military Affairs

(a) Selection of Associate Director

The Associate Director of the Central Intelligence Agency for Military Affairs shall be selected by the Secretary of Defense, with the concurrence of the Director of the Central Intelligence Agency, from among commissioned officers of the Armed Forces who are general or flag officers.

(b) Support for activities

(1) In general

In order to improve the provision of support to, and the receipt of support from, the Central Intelligence Agency, and to improve deconfliction of the activities of the Central Intelligence Agency and the Department of Defense, the Secretary of Defense and the Under Secretary of Defense for Intelligence¹ shall ensure that the Associate Director of the Central Intelligence Agency for Military Affairs has access to, and support from, offices, agencies, and programs of the Department necessary for the purposes of the Associate Director as follows:

(A) To facilitate and coordinate Department of Defense support for the Central Intelligence Agency requested by the Director of the Central Intelligence Agency and approved by the Secretary, including oversight of Department of Defense military and civilian personnel detailed or assigned to the Central Intelligence Agency.

(B) To prioritize, communicate, and coordinate Department of Defense requests for, and the provision of support to, the Department of Defense from the Central Intelligence Agency, including support requested by and provided to the commanders of the combatant commands and subordinate task forces and commands.

(2) Policies

The Under Secretary shall develop and supervise the implementation of policies to integrate and communicate Department of Defense requirements and requests for support from the Central Intelligence Agency that are coordinated by the Associate Director pursuant to paragraph (1)(B).

(Pub. L. 114–328, div. A, title X, §1054, Dec. 23, 2016, 130 Stat. 2398.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2017, and not as part of the Central Intelligence Agency Act of 1949 which comprises this chapter.

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.

¹ See Change of Name note below.

§ 3525. Office of the Ombudsman for Analytic Objectivity

(a) Establishment

(1) In general

There is established in the Agency an Office of the Ombudsman for Analytic Objectivity (in this section referred to as the “Office”).

(2) Appointment of Ombudsman

The Office shall be headed by an Ombudsman, who shall be appointed by the Director from among current or former senior staff officers of the Agency.

(b) Duties and responsibilities

The Ombudsman shall—

(1) on an annual basis, conduct a survey of analytic objectivity among officers and employees of the Agency;

(2) implement a procedure by which any officer or employee of the Agency may submit to the Office a complaint alleging politicization, bias, lack of objectivity, or other issues relating to a failure of tradecraft in analysis conducted by the Agency;

(3) except as provided in paragraph (4), upon receiving a complaint submitted pursuant to paragraph (2), take reasonable action to investigate the complaint, make a determination as to whether the incident described in the complaint involved politicization, bias, or lack of objectivity, and prepare a report that—

(A) summarizes the facts relevant to the complaint;

(B) documents the determination of the Ombudsman with respect to the complaint; and

(C) contains a recommendation for remedial action;

(4) if a complaint submitted pursuant to paragraph (2) alleges politicization, bias, or lack of objectivity in the collection of intelligence information, refer the complaint to the official responsible for supervising collection operations of the Agency; and

(5) continuously monitor changes in areas of analysis that the Ombudsman determines involve a heightened risk of politicization, bias, or lack of objectivity, to ensure that any change in the analytic line arises from proper application of analytic tradecraft and not as a result of politicization, bias, or lack of objectivity.

(c) Reports

(1) On an annual basis, the Ombudsman shall submit to the intelligence committees a report on the results of the survey conducted pursuant to subsection (b)(1) with respect to the most recent fiscal year.

(2) On an annual basis, the Ombudsman shall submit to the intelligence committees a report that includes—

(A) the number of complaints of submitted pursuant to subsection (b)(2) during the most recent fiscal year; and

(B) a description of the nature of such complaints, the actions taken by the Office or any other relevant element or component of the Agency with respect to such complaints, and the resolution of such complaints.