

Administration perform under the first section of the Act entitled 'An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes' (40 U.S.C. 318)".

Subsec. (b). Pub. L. 108-177, §377(c)(2), substituted "section 1315(c)(2) of title 40" for "the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c)".

Subsec. (d). Pub. L. 108-177, §501, added subsec. (d).

2002—Subsec. (a)(5). Pub. L. 107-306 inserted "through 2004" after "Not later than July 1 each year".

2001—Pub. L. 107-108 amended section generally. Prior to amendment, section read as follows: "The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 318b of title 40, of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction."

### § 3610. Senior Cryptologic Executive Service

#### (a) Establishment; applicable personnel provisions

(1) The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. The regulations establishing the Senior Cryptologic Executive Service shall—

(A) meet the requirements set forth in section 3131 of title 5 for the Senior Executive Service;

(B) provide that positions in the Senior Cryptologic Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2) of such title;

(C) provide, without regard to section 2, 1 rates of pay for the Senior Cryptologic Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

(D) provide a performance appraisal system for the Senior Cryptologic Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

(E) provide for removal consistent with section 3592 of such title, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Senior Cryptologic Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Secretary of Defense or his designee);

(F) permit the payment of performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title;

(G) provide that members of the Senior Cryptologic Executive Service may be granted

sabbatical leaves consistent with the provisions of section 3396(c) of such title; and

(H) provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a<sup>1</sup> of such title.

(2) Except as otherwise provided in subsection (a), the Secretary of Defense (or his designee) may—

(A) make applicable to the Senior Cryptologic Executive Service any of the provisions of title 5 applicable to applicants for or members of the Senior Executive Service; and

(B) appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of title 5 governing appointments and other personnel actions in the competitive service.

(3) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5.

(4) Notwithstanding any other provision of this section, the Director of the National Security Agency may detail or assign any member of the Senior Cryptologic Executive Service to serve in a position outside the National Security Agency in which the member's expertise and experience may be of benefit to the National Security Agency or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the Senior Cryptologic Executive Service.

#### (b) Merit pay system

The Secretary of Defense (or his designee) may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense (or his designee) considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5.

#### (c) Maximum pay for fiscal year

Nothing in this section shall be construed to allow the aggregate amount payable to a member of the Senior Cryptologic Executive Service under this section during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year.

(Pub. L. 86-36, §12, as added Pub. L. 97-89, title VI, §603, Dec. 4, 1981, 95 Stat. 1156; amended Pub. L. 101-194, title V, §506(c)(2), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 104-106, div. A, title X, §1064(b), Feb. 10, 1996, 110 Stat. 445.)

#### REFERENCES IN TEXT

Section 2, referred to in subsec. (a)(1)(C), meant section 2 of Pub. L. 86-36, May 29, 1959, 73 Stat. 63; Pub. L. 87-367, title II, §201, Oct. 4, 1961, 75 Stat. 789; Sept. 23, 1950, ch. 1024, title III, §306(a), as added Pub. L. 88-290, Mar. 26, 1964, 78 Stat. 170; Pub. L. 88-426, title III, §306(h), Aug. 14, 1964, 78 Stat. 430; Pub. L. 88-631, §3(d), Oct. 6, 1964, 78 Stat. 1008; Pub. L. 89-632, §1(e)(1), Oct. 8, 1966, 80 Stat. 878; Pub. L. 102-496, title IV, §405, Oct. 24, 1992, 106 Stat. 3186, which related to authority of Sec-

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

retary of Defense to establish positions and fix compensation, prior to repeal by Pub. L. 104-201, div. A, title XVI, §§1633(b)(1), 1635, Sept. 23, 1996, 110 Stat. 2751, 2752, effective Oct. 1, 1996. A new section 2 of Pub. L. 86-36 subsequently was added by Pub. L. 111-259, title IV, §433, Oct. 7, 2010, 124 Stat. 2732, and is classified to section 3602 of this title.

Section 3393a of title 5, referred to in subsec. (a)(1)(H), was repealed by Pub. L. 107-296, title XIII, §1321(a)(1)(B), Nov. 25, 2002, 116 Stat. 2296.

Level I of the Executive Schedule, referred to in subsec. (c), is set out in section 5312 of Title 5, Government Organization and Employees.

#### CODIFICATION

Section was formerly classified in a note under section 402 of this title prior to editorial reclassification as this section.

#### AMENDMENTS

1996—Subsec. (a)(5). Pub. L. 104-106 struck out par. (5), which required the Director of the National Security Agency to submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate annual reports on executive personnel in the National Security Agency.

1989—Subsec. (a)(1)(F). Pub. L. 101-194, §506(c)(2)(A), struck out “and” at end of subpar. (F).

Subsec. (a)(1)(G). Pub. L. 101-194, §506(c)(2)(B), which directed amendment by inserting “and” after the semicolon at the end of subpar. (G), was executed by substituting “; and” for the period at the end of subpar. (G), to reflect the probable intent of Congress.

Subsec. (a)(1)(H). Pub. L. 101-194, §506(c)(2)(C), added subpar. (H).

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101-194, set out as a note under section 3151 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as a note under section 1621 of Title 10, Armed Forces.

### § 3611. Cryptologic research grant program

#### (a) Authorization

The Director of the National Security Agency may make grants to private individuals and institutions for the conduct of cryptologic research. An application for a grant under this section may not be approved unless the Director determines that the award of the grant would be clearly consistent with the national security.

#### (b) Conduct of program

The grant program established by subsection (a) shall be conducted in accordance with chapter 63 of title 31 to the extent that such chapter is consistent with and in accordance with section 3605 of this title.

#### (c) Authority limited to availability of appropriated funds

The authority of the Director to make grants under this section is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(Pub. L. 86-36, §13, as added Pub. L. 97-89, title VI, §603, Dec. 4, 1981, 95 Stat. 1158.)

#### CODIFICATION

Section was formerly classified in a note under section 402 of this title prior to editorial reclassification as this section.

In subsec. (b), “chapter 63 of title 31” substituted for “the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.)” and “such chapter” substituted for “such Act” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

#### EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as a note under section 1621 of Title 10, Armed Forces.

### § 3612. Availability of appropriations

Funds appropriated to an entity of the Federal Government other than an element of the Department of Defense that have been specifically appropriated for the purchase of cryptologic equipment, materials, or services with respect to which the National Security Agency has been designated as the central source of procurement for the Government shall remain available for a period of three fiscal years.

(Pub. L. 86-36, §14, as added Pub. L. 97-89, title VI, §603, Dec. 4, 1981, 95 Stat. 1158.)

#### CODIFICATION

Section was formerly classified in a note under section 402 of this title prior to editorial reclassification as this section.

#### EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as a note under section 1621 of Title 10, Armed Forces.

### § 3613. Misuse of Agency name, initials, or seal

(a) No person may, except with the written permission of the Director of the National Security Agency, knowingly use the words “National Security Agency”, the initials “NSA”, the seal of the National Security Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the National Security Agency.

(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(Pub. L. 86-36, §15, as added Pub. L. 97-89, title VI, §603, Dec. 4, 1981, 95 Stat. 1158.)

#### CODIFICATION

Section was formerly classified in a note under section 402 of this title prior to editorial reclassification as this section.

#### EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 806 of Pub. L. 97-89, set out as a note under section 1621 of Title 10, Armed Forces.