(B) the equipment, facility, or service has been replaced or significantly upgraded or otherwise undergoes major modification.

(Pub. L. 103–414, title I, § 108, Oct. 25, 1994, 108 Stat. 4285.)

§ 1008. Payment of costs of telecommunications carriers to comply with capability requirements

(a) Equipment, facilities, and services deployed on or before January 1, 1995

The Attorney General may, subject to the availability of appropriations, agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 1002 of this title.

(b) Equipment, facilities, and services deployed after January 1, 1995

(1) Determinations of reasonably achievable

The Commission, on petition from a telecommunications carrier or any other interested person, and after notice to the Attorney General, shall determine whether compliance with the assistance capability requirements of section 1002 of this title is reasonably achievable with respect to any equipment, facility, or service installed or deployed after January 1, 1995. The Commission shall make such determination within 1 year after the date such petition is filed. In making such determination, the Commission shall determine whether compliance would impose significant difficulty or expense on the carrier or on the users of the carrier's systems and shall consider the following factors:

(A) The effect on public safety and national security.

(B) The effect on rates for basic residential telephone service.

(C) The need to protect the privacy and security of communications not authorized to be intercepted.

(D) The need to achieve the capability assistance requirements of section 1002 of this title by cost-effective methods.

(E) The effect on the nature and cost of the equipment, facility, or service at issue.

(F) The effect on the operation of the equipment, facility, or service at issue.

(G) The policy of the United States to encourage the provision of new technologies and services to the public.

(H) The financial resources of the telecommunications carrier.

(I) The effect on competition in the provision of telecommunications services.

(J) The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.

(K) Such other factors as the Commission determines are appropriate.

(2) Compensation

If compliance with the assistance capability requirements of section 1002 of this title is not reasonably achievable with respect to equipment, facilities, or services deployed after January 1, 1995—

(A) the Attorney General, on application of a telecommunications carrier, may agree, subject to the availability of appropriations, to pay the telecommunications carrier for the additional reasonable costs of making compliance with such assistance capability requirements reasonably achievable; and

(B) if the Attorney General does not agree to pay such costs, the telecommunications carrier shall be deemed to be in compliance with such capability requirements.

(c) Allocation of funds for payment

The Attorney General shall allocate funds appropriated to carry out this subchapter in accordance with law enforcement priorities determined by the Attorney General.

(d) Failure to make payment with respect to equipment, facilities, and services deployed on or before January 1, 1995

If a carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e) of this section, and the Attorney General has not agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring any equipment, facility, or service deployed on or before January 1, 1995, into compliance with the assistance capability requirements of section 1002 of this title, such equipment, facility, or service shall be considered to be in compliance with the assistance capability requirements of section 1002 of this title until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modification.

(e) Cost control regulations

(1) In general

The Attorney General shall, after notice and comment, establish regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers under this subchapter, under chapters 119 and 121 of title 18, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(2) Contents of regulations

The Attorney General, after consultation with the Commission, shall prescribe regulations for purposes of determining reasonable costs under this subchapter. Such regulations shall seek to minimize the cost to the Federal Government and shall—

(A) permit recovery from the Federal Government of—

(i) the direct costs of developing the modifications described in subsection (a) of this section, of providing the capabilities requested under subsection (b)(2) of this section, or of providing the capacities requested under section 1003(e) of this title, but only to the extent that such costs have not been recovered from any other governmental or nongovernmental entity;

(ii) the costs of training personnel in the use of such capabilities or capacities; and

(iii) the direct costs of deploying or installing such capabilities or capacities;

(B) in the case of any modification that may be used for any purpose other than lawfully authorized electronic surveillance by a law enforcement agency of a government, permit recovery of only the incremental cost of making the modification suitable for such law enforcement purposes; and

(C) maintain the confidentiality of trade secrets.

(3) Submission of claims

Such regulations shall require any telecommunications carrier that the Attorney General has agreed to pay for modifications pursuant to this section and that has installed or deployed such modification to submit to the Attorney General a claim for payment that contains or is accompanied by such information as the Attorney General may require.

(Pub. L. 103–414, title I, § 109, Oct. 25, 1994, 108 Stat. 4286.)

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (e)(1), is Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§ 1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

§ 1009. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter a total of $500,000,000 for fiscal years 1995, 1996, 1997, and 1998. Such sums are authorized to remain available until expended.

(Pub. L. 103–414, title I, § 110, Oct. 25, 1994, 108 Stat. 4288.)

§ 1010. Reports

(a) Reports by Attorney General

(1) In general

On or before November 30, 1995, and on or before November 30 of each year thereafter, the Attorney General shall submit to Congress and make available to the public a report on the amounts paid during the preceding fiscal year to telecommunications carriers under sections 1003(e) and 1008 of this title.

(2) Contents

A report under paragraph (1) shall include—

(A) a detailed accounting of the amounts paid to each carrier and the equipment, facility, or service for which the amounts were paid; and

(B) projections of the amounts expected to be paid in the current fiscal year, the carriers to which payment is expected to be made, and the equipment, facilities, or services for which payment is expected to be made.

(b) Reports by Comptroller General and Inspector General

(1) On or before April 1, 1996, the Comptroller General of the United States, and every two years thereafter, the Inspector General of the Department of Justice, shall submit to the Congress a report, after consultation with the Attorney General and the telecommunications industry—

(A) describing the type of equipment, facilities, and services that have been brought into compliance under this subchapter; and

(B) reflecting its analysis of the reasonableness and cost-effectiveness of the payments made by the Attorney General to telecommunications carriers for modifications necessary to ensure compliance with this subchapter.

(2) COMPLIANCE COST ESTIMATES.—A report under paragraph (1) shall include findings and conclusions on the costs to be incurred by telecommunications carriers to comply with the assistance capability requirements of section 1002 of this title after the effective date of such section 1002 of this title, including projections of the amounts expected to be incurred and a description of the equipment, facilities, or services for which they are expected to be incurred.

(Pub. L. 103–414, title I, § 112, Oct. 25, 1994, 108 Stat. 4288; Pub. L. 104–316, title I, § 126(b), Oct. 19, 1996, 110 Stat. 3840.)

REFERENCES IN TEXT

The effective date of section 1002 of this title, referred to in subsec. (b)(2), is the date that is 4 years after Oct. 25, 1994, see section 111(b) of Pub. L. 103–414, set out as an Effective Date note under section 1001 of this title.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–316, § 126(b)(1), inserted introductory provisions and struck out heading and text of former introductory provisions. Text read as follows: ''On or before April 1, 1996, and every 2 years thereafter, the Comptroller General of the United States, after consultation with the Attorney General and the telecommunications industry, shall submit to the Congress a report—''.

Subsec. (b)(2). Pub. L. 104–316, § 126(b)(2), substituted ''findings and conclusions'' for ''the findings and conclusions of the Comptroller General''.

SUBCHAPTER II—TELECOMMUNICATIONS CARRIER COMPLIANCE PAYMENTS

§ 1021. Department of Justice Telecommunications Carrier Compliance Fund

(a) Establishment of Fund

There is hereby established in the United States Treasury a fund to be known as the Department of Justice Telecommunications Carrier Compliance Fund (hereafter referred to as ''the Fund''), which shall be available without fiscal year limitation to the Attorney General for making payments to telecommunications carriers, equipment manufacturers, and providers of telecommunications support services pursuant to section 1008 of this title.

(b) Deposits to Fund

Notwithstanding any other provision of law, any agency of the United States with law enforcement or intelligence responsibilities may deposit as offsetting collections to the Fund any unobligated balances that are available until expended, upon compliance with any Congres-