

SUBCHAPTER II—MISCELLANEOUS
DEFENSE AGENCY MATTERS

Sec.	
201.	Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance.
[202.	Repealed.]
203.	Director of Missile Defense Agency.

AMENDMENTS

2002—Pub. L. 107–314, div. A, title II, § 225(b)(1)(B)(ii), Dec. 2, 2002, 116 Stat. 2486, substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization” in item 203.

1997—Pub. L. 105–107, title V, § 503(d)(1), Nov. 20, 1997, 111 Stat. 2262, struck out item 202 “Unauthorized use of Defense Intelligence Agency name, initials, or seal”.

Pub. L. 105–85, div. A, title II, § 235(b), Nov. 18, 1997, 111 Stat. 1665, added item 203.

1996—Pub. L. 104–201, div. A, title XI, § 1103(b), Sept. 23, 1996, 110 Stat. 2677, substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in item 201.

1991—Pub. L. 102–190, div. A, title IX, § 922(b), Dec. 5, 1991, 105 Stat. 1453, added item 201 and redesignated former item 201 as 202.

1986—Pub. L. 99–433, title III, § 301(a)(2), Oct. 1, 1986, 100 Stat. 1022, added subchapter heading and analysis of sections for subchapter II.

§ 201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

(b) CONCURRENCE IN APPOINTMENT.—(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 (50 U.S.C. 403–6(b)).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) PERFORMANCE EVALUATIONS.—(1) The Director of National Intelligence shall provide annually to the Secretary of Defense, for the Secretary’s consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Intelligence Program.

(2) The positions referred to in paragraph (1) are the following:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(Added Pub. L. 102–190, div. A, title IX, § 922(a)(2), Dec. 5, 1991, 105 Stat. 1453; amended Pub. L. 104–201, div. A, title XI, § 1103(a), Sept. 23, 1996, 110 Stat. 2676; Pub. L. 108–136, div. A, title IX, § 921(d)(4), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110–181, div. A, title IX, § 931(a)(4), (5), (c)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, § 932(a)(3)–(5), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

PRIOR PROVISIONS

A prior section 201 was renumbered section 202 of this title and subsequently repealed.

AMENDMENTS

2009—Subsecs. (a), (b)(1), (c)(1). Pub. L. 111–84 repealed Pub. L. 110–417, § 932(a)(3)–(5). See 2008 Amendment notes below.

2008—Subsec. (a). Pub. L. 110–181, § 931(a)(4), and Pub. L. 110–417, § 932(a)(3), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, § 932(a)(3), was repealed by Pub. L. 111–84.

Subsec. (b)(1). Pub. L. 110–417, § 932(a)(4), which directed substitution of “Director of National Intelligence” for “Director of Central Intelligence”, could not be executed because of the intervening amendment by Pub. L. 110–181, § 931(c)(2)(A), and was repealed by Pub. L. 111–84.

Pub. L. 110–181, § 931(c)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director’s concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.”

Subsec. (c)(1). Pub. L. 110–181, § 931(c)(2)(B), substituted “National Intelligence Program” for “National Foreign Intelligence Program”.

Pub. L. 110–181, § 931(a)(5), and Pub. L. 110–417, § 932(a)(5), amended par. (1) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, § 932(a)(5), was repealed by Pub. L. 111–84.

2003—Subsecs. (b)(2)(C), (c)(2)(C). Pub. L. 108–136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1996—Pub. L. 104–201 substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in section catchline and amended text generally. Prior to amendment, text read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency or Director of the National Security Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

SIMILAR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section are contained in section 403-6(a) and (b) of Title 50, War and National Defense.

DEFENSE INTELLIGENCE AGENCY

Pub. L. 102-190, div. A, title IX, §921, Dec. 5, 1991, 105 Stat. 1452, as amended by Pub. L. 103-337, div. A, title X, §1070(d)(1), Oct. 5, 1994, 108 Stat. 2858, provided that, during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, the Assistant Secretary of Defense referred to in section 138(b)(3) of this title could be assigned supervision of the Defense Intelligence Agency other than day-to-day operational control over the Agency, set forth the responsibilities of the Director of the Defense Intelligence Agency during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, and directed the Secretary of the Army and the Director of the Defense Intelligence Agency to take all required actions in order to transfer the Armed Forces Medical Intelligence Center and the Missile and Space Intelligence Center from the Department of the Army to the control of the Defense Intelligence Agency not later than Jan. 1, 1992.

JOINT INTELLIGENCE CENTER

Section 923 of Pub. L. 102-190 provided that:

“(a) REQUIREMENT FOR CENTER.—The Secretary of Defense shall direct the consolidation of existing single-service current intelligence centers that are located within the District of Columbia or its vicinity into a joint intelligence center that is responsible for preparing current intelligence assessments (including indications and warning). The joint intelligence center shall be located within the District of Columbia or its vicinity. As appropriate for the support of military operations, the joint intelligence center shall provide for and manage the collection and analysis of intelligence.

“(b) MANAGEMENT.—The center shall be managed by the Defense Intelligence Agency in its capacity as the intelligence staff activity of the Chairman of the Joint Chiefs of Staff.

“(c) RESPONSIVENESS TO COMMAND AUTHORITIES.—The Secretary shall ensure that the center is fully responsive to the intelligence needs of the Secretary, the Chairman of the Joint Chiefs of Staff, and the commanders of the combatant commands.”

[§ 202. Repealed. Pub. L. 105-107, title V, § 503(c), Nov. 20, 1997, 111 Stat. 2262]

Section, added Pub. L. 97-269, title V, §501(a), Sept. 27, 1982, 96 Stat. 1145, §191; amended Pub. L. 98-525, title XIV, §1405(6), Oct. 19, 1984, 98 Stat. 2622; renumbered §201, Pub. L. 99-433, title III, §301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered §202, Pub. L. 102-190, div. A, title IX, §922(a)(1), Dec. 5, 1991, 105 Stat. 1453; Pub. L. 105-107, title V, §503(b), Nov. 20, 1997, 111 Stat. 2262, related to unauthorized use of Defense Intelligence Agency name, initials, or seal, after amendment by Pub. L. 105-107, which transferred subsec. (b) to end of section 425.

§ 203. Director of Missile Defense Agency

If an officer of the armed forces on active duty is appointed to the position of Director of the Missile Defense Agency, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of this title and shall carry the grade of lieutenant general or general or, in the case of an officer of the Navy, vice admiral or admiral.

(Added Pub. L. 105-85, div. A, title II, §235(a), Nov. 18, 1997, 111 Stat. 1665; amended Pub. L. 107-314, div. A, title II, §225(b)(1)(A), (B)(i), Dec. 2, 2002, 116 Stat. 2486.)

AMENDMENTS

2002—Pub. L. 107-314 substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization” in section catchline and text.

CHAPTER 9—DEFENSE BUDGET MATTERS

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| Sec. | |
| 221. | Future-years defense program: submission to Congress; consistency in budgeting. |
| 222. | Future-years mission budget. |
| 223. | Ballistic missile defense programs: program elements. |
| 223a. | Ballistic missile defense programs: procurement. |
| 224. | Ballistic missile defense programs: display of amounts for research, development, test, and evaluation. |
| 225. | Acquisition accountability reports on the ballistic missile defense system. |
| [226, 227.] | Repealed.] |
| 228. | Biannual reports on allocation of funds within operation and maintenance budget subactivities. |
| 229. | Programs for combating terrorism: display of budget information. |
| [230.] | Repealed.] |
| 231. | Budgeting for construction of naval vessels: annual plan and certification ¹ |
| 231a. | Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification. |
| 232. | United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts. |
| 233. | Operation and maintenance budget presentation. |
| 234. | POW/MIA activities: display of budget information. |
| 235. | Procurement of contract services: specification of amounts requested in budget. |

AMENDMENTS

2011—Pub. L. 112-81, div. A, title X, §§1011(b), 1061(3)(B), 1064(4)(B)(ii), 1069(c), Dec. 31, 2011, 125 Stat. 1560, 1583, 1587, 1592, struck out item 226 “Scoring of outlays”, added item 228 and struck out former item 228 “Quarterly reports on allocation of funds within operation and maintenance budget subactivities”, added item 231 and struck out former item 231 “Long-range plan for construction of naval vessels”, and amended item 231a generally. Prior to amendment, item 231a read as follows: “Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification”.

Pub. L. 112-81, div. A, title II, §231(a)(2), Dec. 31, 2011, 125 Stat. 1339, which directed the addition of item 225 at the end of this analysis, was executed by adding item 225 after item 224 to reflect the probable intent of Congress.

Pub. L. 111-383, div. A, title X, §1023(b), Jan. 7, 2011, 124 Stat. 4350, added item 231 and struck out former item 231 “Budgeting for construction of naval vessels: annual plan and certification”.

2009—Pub. L. 111-84, div. A, title VIII, §803(a)(2), Oct. 28, 2009, 123 Stat. 2402, added item 235.

2008—Pub. L. 110-417, [div. A], title I, §141(b), Oct. 14, 2008, 122 Stat. 4380, added item 231a.

2006—Pub. L. 109-364, div. A, title V, §563(b), Oct. 17, 2006, 120 Stat. 2222, added item 234.

2004—Pub. L. 108-375, div. A, title II, §214(b), title X, §1003(a)(2), Oct. 28, 2004, 118 Stat. 1834, 2035, added items 232 and 233.

2003—Pub. L. 108-136, div. A, title II, §223(a)(2), title X, §1031(a)(6)(B)(ii), Nov. 24, 2003, 117 Stat. 1420, 1596, added item 223a and substituted “Quarterly” for “Monthly” in item 228.

¹ So in original. Probably should be followed by a period.