

(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law.

(j) **OVERSIGHT AND COST ACCOUNTING.**—The Secretary of Defense shall establish a program to improve the oversight and cost accounting of training projects conducted in accordance with this section. The program shall include measures to accomplish the following:

(1) Ensure that each project that is proposed to be conducted in accordance with this section (regardless of whether additional funding from the Secretary of Defense is sought) is requested in writing, reviewed for full compliance with this section, and approved in advance of initiation by the Secretary of the military department concerned and, in the case of a project that seeks additional funding from the Secretary of Defense, by the Secretary of Defense.

(2) Ensure that each project that is conducted in accordance with this section is required to provide, within a specified period following completion of the project, an after-action report to the Secretary of Defense.

(3) Require that each application for a project to be conducted in accordance with this section include an analysis and certification that the proposed project would not result in a significant increase in the cost of training (as determined in accordance with procedures prescribed by the Secretary of Defense).

(4) Determine the total program cost for each project, including both those costs that are borne by the military departments from their own accounts and those costs that are borne by defense-wide accounts.

(5) Provide for oversight of project execution to ensure that a training project under this section is carried out in accordance with the proposal for that project as approved.

(Added Pub. L. 104–106, div. A, title V, §572(a)(1), Feb. 10, 1996, 110 Stat. 353; amended Pub. L. 105–85, div. A, title V, §594, Nov. 18, 1997, 111 Stat. 1764; Pub. L. 105–261, div. A, title V, §525(a), Oct. 17, 1998, 112 Stat. 2014.)

#### REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (h)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### AMENDMENTS

1998—Subsec. (j). Pub. L. 105–261 added subsec. (j).

1997—Subsecs. (g) to (i). Pub. L. 105–85 added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

#### IMPLEMENTATION

Pub. L. 105–261, div. A, title V, §525(b), Oct. 17, 1998, 112 Stat. 2014, as amended by Pub. L. 106–65, div. A, title X, §1066(b)(4), Oct. 5, 1999, 113 Stat. 772, provided that: “The Secretary of Defense may not initiate any project under section 2012 of title 10, United States Code, after October 1, 1998, until the program required by sub-

section (j) of that section (as added by subsection (a)) has been established.”

#### TERMINATION OF FUNDING FOR OFFICE OF CIVIL-MILITARY PROGRAMS IN OFFICE OF THE SECRETARY OF DEFENSE

Section 574 of Pub. L. 104–106 provided that: “No funds may be obligated or expended after the date of the enactment of this Act [Feb. 10, 1996] (1) for the office that as of the date of the enactment of this Act is designated, within the Office of the Assistant Secretary of Defense for Reserve Affairs, as the Office of Civil-Military Programs, or (2) for any other entity within the Office of the Secretary of Defense that has an exclusive or principal mission of providing centralized direction for activities under section 2012 of title 10, United States Code, as added by section 572.”

#### § 2013. Training at non-Government facilities

(a) **AUTHORITY TO ENTER INTO AGREEMENTS.**—(1) The Secretary concerned, without regard to section 6101(b)–(d) of title 41, may make agreements or other arrangements for the training of members of the uniformed services under the jurisdiction of that Secretary by, in, or through non-Government facilities.

(2) In this section, the term “non-Government facility” means any of the following:

(A) The government of a State or of a territory or possession of the United States, including the Commonwealth of Puerto Rico, an interstate governmental organization, and a unit, subdivision, or instrumentality of any of the foregoing.

(B) A foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this section.

(C) A medical, scientific, technical, educational, research, or professional institution, foundation, or organization.

(D) A business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization.

(E) Individuals other than civilian or military personnel of the Government.

(F) The services and property of any of the foregoing providing the training.

(b) **EXPENSES.**—The Secretary concerned, from appropriations or other funds available to the Secretary, may—

(1) pay all or a part of the pay of a member of a uniformed service who is selected and assigned for training under this section, for the period of training; and

(2) pay, or reimburse the member of a uniformed service for, all or a part of the necessary expenses of the training (without regard to subsections (a) and (b) of section 3324 of title 31), including among those expenses the necessary costs of the following:

(A) Travel and per diem instead of subsistence under sections 474 and 475 of title 37 and the Joint Travel Regulations for the Uniformed Services.

(B) Transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under sections 476 and 479 of title 37 and the Joint Travel Regulations for the Uniformed Services when the estimated costs of transportation and related services

are less than the estimated aggregate per diem payments for the period of training.

(C) Tuition and matriculation fees.

(D) Library and laboratory services.

(E) Purchase or rental of books, materials, and supplies.

(F) Other services or facilities directly related to the training of the member.

(c) CERTAIN EXPENSES EXCLUDED.—The expenses of training do not include membership fees except to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent to undergoing the training.

(Added Pub. L. 104-201, div. A, title III, §362(a)(1), Sept. 23, 1996, 110 Stat. 2491; amended Pub. L. 111-350, §5(b)(2), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 112-81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465.)

#### CODIFICATION

Section 631(f)(4)(A) of Pub. L. 112-81, which directed that this title be amended by conforming any references to sections of title 37, United States Code, which were transferred and redesignated by “subsection (c)” of section 631, was executed by conforming the references to those sections as transferred and redesignated by subsection (d) of section 631, to reflect the probable intent of Congress.

#### AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111-350 substituted “section 6101(b)–(d) of title 41” for “section 3709 of the Revised Statutes (41 U.S.C. 5)”.

Subsec. (b)(2)(A), (B). Pub. L. 112-81 substituted “474” for “404” and “475” for “405” in subpar. (A), and “476” for “406” and “479” for “409” in subpar. (B). See Codification note above.

#### EFFECTIVE DATE

Section 362(b) of Pub. L. 104-201 provided that: “Section 2013 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1996.”

### § 2014. Administrative actions adversely affecting military training or other readiness activities

(a) CONGRESSIONAL NOTIFICATION.—Whenever an official of an Executive agency takes or proposes to take an administrative action that, as determined by the Secretary of Defense in consultation with the Chairman of the Joint Chiefs of Staff, affects training or any other readiness activity in a manner that has or would have a significant adverse effect on the military readiness of any of the armed forces or a critical component thereof, the Secretary shall submit a written notification of the action and each significant adverse effect to the head of the Executive agency taking or proposing to take the administrative action. At the same time, the Secretary shall transmit a copy of the notification to the President, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives.

(b) NOTIFICATION TO BE PROMPT.—(1) Subject to paragraph (2), the Secretary shall submit a written notification of an administrative action or proposed administrative action required by subsection (a) as soon as possible after the Secretary becomes aware of the action or proposed action.

(2) The Secretary shall prescribe policies and procedures to ensure that the Secretary receives information on an administrative action or proposed administrative action described in subsection (a) promptly after Department of Defense personnel receive notice of such an action or proposed action.

(c) CONSULTATION BETWEEN SECRETARY AND HEAD OF EXECUTIVE AGENCY.—Upon notification with respect to an administrative action or proposed administrative action under subsection (a), the head of the Executive agency concerned shall—

(1) respond promptly to the Secretary; and

(2) consistent with the urgency of the training or readiness activity involved and the provisions of law under which the administrative action or proposed administrative action is being taken, seek to reach an agreement with the Secretary on immediate actions to attain the objective of the administrative action or proposed administrative action in a manner which eliminates or mitigates the adverse effects of the administrative action or proposed administrative action upon the training or readiness activity.

(d) MORATORIUM.—(1) Subject to paragraph (2), upon notification with respect to an administrative action or proposed administrative action under subsection (a), the administrative action or proposed administrative action shall cease to be effective with respect to the Department of Defense until the earlier of—

(A) the end of the five-day period beginning on the date of the notification; or

(B) the date of an agreement between the head of the Executive agency concerned and the Secretary as a result of the consultations under subsection (c).

(2) Paragraph (1) shall not apply with respect to an administrative action or proposed administrative action if the head of the Executive agency concerned determines that the delay in enforcement of the administrative action or proposed administrative action will pose an actual threat of an imminent and substantial endangerment to public health or the environment.

(e) EFFECT OF LACK OF AGREEMENT.—(1) If the head of an Executive agency and the Secretary do not enter into an agreement under subsection (c)(2), the Secretary shall submit a written notification to the President who shall take final action on the matter.

(2) Not later than 30 days after the date on which the President takes final action on a matter under paragraph (1), the President shall submit to the committees referred to in subsection (a) a notification of the action.

(f) LIMITATION ON DELEGATION OF AUTHORITY.—The head of an Executive agency may not delegate any responsibility under this section.

(g) DEFINITION.—In this section, the term “Executive agency” has the meaning given such term in section 105 of title 5, except that the term does not include the Government Accountability Office.

(Added Pub. L. 105-85, div. A, title III, §325(a), Nov. 18, 1997, 111 Stat. 1678; amended Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-375, div. A, title X, §1084(c)(3), Oct. 28, 2004, 118 Stat. 2061.)