

The President, section 5315 of Title 5, Government Organization and Employees, and sections 2 and 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5] may be cited as the ‘Diplomatic Security Act.’”

FINDINGS

Pub. L. 117-263, div. I, title XCIII, §9302(b), Dec. 23, 2022, 136 Stat. 3882, provided that: “Congress makes the following findings:

“(1) A robust overseas diplomatic presence is part of an effective foreign policy, particularly in volatile environments where a flexible and timely diplomatic response can be decisive in preventing and addressing conflict.

“(2) Diplomats routinely put themselves and their families at great personal risk to serve their country overseas where they face threats related to international terrorism, violent conflict, and public health.

“(3) The Department [of State] has a remarkable record of protecting personnel while enabling an enormous amount of global diplomatic activity, often in insecure and remote places and facing a variety of evolving risks and threats. With support from Congress, the Department has revised policy, improved physical security through retrofitting and replacing old facilities, deployed additional security personnel and armored vehicles, and greatly enhanced training requirements and training facilities, including the new Foreign Affairs Security Training Center in Blackstone, Virginia.

“(4) Diplomatic missions rely on robust staffing and ambitious external engagement to advance United States interests as diverse as competing with China’s malign influence around the world, fighting terrorism and transnational organized crime, preventing and addressing violent conflict and humanitarian disasters, promoting United States businesses and trade, protecting the rights of marginalized groups, addressing climate change, and preventing pandemic disease.

“(5) Efforts to protect personnel overseas have often resulted in inhibiting diplomatic activity and limiting engagement between embassy personnel and local governments and populations.

“(6) Given that Congress currently provides annual appropriations in excess of \$1,900,000,000 for embassy security, construction, and maintenance, the Department should be able to ensure a robust overseas presence without inhibiting the ability of diplomats to—

“(A) meet outside United States secured facilities with foreign leaders to explain, defend, and advance United States priorities;

“(B) understand and report on foreign political, social, and economic conditions through meeting and interacting with community officials outside of United States facilities;

“(C) provide United States citizen services; and

“(D) collaborate and, at times, compete with other diplomatic missions, particularly those, such as that of the People’s Republic of China, that do not have restrictions on meeting locations.

“(7) Given these stakes, Congress has a responsibility to empower, support, and hold the Department accountable for implementing an aggressive strategy to ensure a robust overseas presence that mitigates potential risks and adequately considers the myriad direct and indirect consequences of a lack of diplomatic presence.”

§ 4802. Responsibility of Secretary of State

(a) Security functions

(1) The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and

standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(A) protection of all United States Government personnel on official duty abroad (other than Voice of America correspondents on official assignment and those personnel under the command of a United States area military commander) and their accompanying dependents;

(B) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);

(C) establishment and operation of security functions at all Department of State facilities in the United States; and

(D) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(2) Security responsibilities shall include the following:

(A) Former Office of Security functions

Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

(B) Security and protective operations

(i) Establishment and operation of post security and protective functions abroad.

(ii) Development and implementation of communications, computer, and information security.

(iii) Emergency planning.

(iv) Establishment and operation of local guard services abroad.

(v) Supervision of the United States Marine Corps security guard program.

(vi) Liaison with American overseas private sector security interests.

(vii) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel in the United States, as authorized by law.

(viii) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

(ix) Physical protection of Department of State facilities, communications, and computer and information systems in the United States.

(x) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions in the United States, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

(xi) Carrying out the rewards program for information concerning international terrorism authorized by section 2708(a)¹ of this title.

(xii) Performance of other security, investigative, and protective matters as authorized by law.

¹ See References in Text note below.

(C) Counterterrorism planning and coordination

Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

(D) Security technology

Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.

(E) Diplomatic courier service

Management of the diplomatic courier service.

(F) Personnel training

Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

(G) Foreign government training

Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).

(b) Overseas evacuations

The Secretary of State shall develop and implement policies and programs to provide for the safe and efficient evacuation of United States Government personnel, dependents, and private United States citizens when their lives are endangered. Such policies shall include measures to identify high risk areas where evacuation may be necessary and, where appropriate, providing staff to United States Government missions abroad to assist in those evacuations. In carrying out these responsibilities, the Secretary shall—

(1) develop a model contingency plan for evacuation of personnel, dependents, and United States citizens from foreign countries;

(2) develop a mechanism whereby United States citizens can voluntarily request to be placed on a list in order to be contacted in the event of an evacuation, or which, in the event of an evacuation, can maintain information on the location of United States citizens in high risk areas submitted by their relatives;

(3) assess the transportation and communications resources in the area being evacuated and determine the logistic support needed for the evacuation; and

(4) develop a plan for coordinating communications between embassy staff, Department of State personnel, and families of United States citizens abroad regarding the whereabouts of those citizens.

(c) Oversight of posts abroad

The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad

pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander)²

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander or regional inspector general offices under the jurisdiction of the inspector³ General, Agency for International Development).

(d) Federal agency

As used in this subchapter and subchapter III, the term “Federal agency” includes any department or agency of the United States Government.

(Pub. L. 99-399, title I, §103, Aug. 27, 1986, 100 Stat. 856; Pub. L. 100-202, §101(e) [title II, §201], Dec. 22, 1987, 101 Stat. 1329-131, 1329-141; Pub. L. 100-461, title II, §201, Oct. 1, 1988, 102 Stat. 2268-10; Pub. L. 101-246, title I, §115(b), Feb. 16, 1990, 104 Stat. 22; Pub. L. 103-236, title I, §162(g)(2), Apr. 30, 1994, 108 Stat. 406; Pub. L. 103-415, §1(f)(4)(A)(i), Oct. 25, 1994, 108 Stat. 4300; Pub. L. 107-228, div. A, title V, §505(a), Sept. 30, 2002, 116 Stat. 1393.)

Editorial Notes

REFERENCES IN TEXT

Section 2708 of this title, referred to in subsec. (a)(2)(B)(xi), was amended generally by Pub. L. 105-323, title I, §101, Oct. 30, 1998, 112 Stat. 3029, and, as so amended, provisions authorizing awards, formerly contained in section 2708(a), are now contained in section 2708(b).

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2)(G), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Chapter 8 of part II of the Act is classified generally to part VIII (§2349aa et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2002—Subsec. (a)(1)(A). Pub. L. 107-228 inserted “Voice of America correspondents on official assignment and” after “abroad (other than”.

1994—Subsec. (a). Pub. L. 103-415 substituted “operation” for “operations” in par. (2)(B)(i).

Pub. L. 103-236 designated existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2).

1990—Subsecs. (b) to (d). Pub. L. 101-246 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1988—Subsec. (b)(2). Pub. L. 100-461 inserted “or regional inspector general offices under the jurisdiction of the inspector General, Agency for International Development” after “commander”, and substituted a period for “; and” at end.

Subsec. (b)(3). Pub. L. 100-461 struck out par. (3) which read as follows: “establish, notwithstanding any other provision of law, appropriate overseas staffing levels of the Regional Offices of the Inspector General of the Agency for International Development in effective consultation with the Inspector General of the Agency: *Provided*, That the authority of the Secretary of State shall be exercised only by the Secretary and

² So in original. Probably should be followed by “; and”.

³ So in original. Probably should be capitalized.

shall not be delegated to a subordinate officer of the Department of State: *Provided further*, That the Inspector General must report to the appropriate committees of both Houses of the Congress within thirty days the denial by the Secretary of State of a request by the Inspector General to increase or reduce an existing position level of a regional office: *Provided further*, That the total number of positions authorized for the Office of the Inspector General in Washington and overseas shall be determined by the Inspector General within the limitation of the appropriations level provided.”

1987—Subsec. (b)(3). Pub. L. 100-202 added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103-236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103-236, as amended, set out as a note under section 2651a of this title.

OVERSEAS SECURITY BRIEFINGS

Pub. L. 117-81, div. E, title LII, § 5210, Dec. 27, 2021, 135 Stat. 2358, provided that: “Not later than one year after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of State shall revise the Foreign Affairs Manual to stipulate that information on the current threat environment shall be provided to all United States Government employees under chief of mission authority traveling to a foreign country on official business. To the extent practicable, such material shall be provided to such employees prior to their arrival at a United States diplomatic post or as soon as possible thereafter.”

DIRECT REPORTING

Pub. L. 114-323, title I, § 103, Dec. 16, 2016, 130 Stat. 1909, provided that: “The Assistant Secretary for Diplomatic Security shall report directly to the Secretary [of State], without being required to obtain the approval or concurrence of any other official of the Department [of State], as threats and circumstances require.”

MARINE CORPS SECURITY GUARD PROGRAM

Pub. L. 114-323, title I, § 131, Dec. 16, 2016, 130 Stat. 1914, provided that:

“(a) IN GENERAL.—Pursuant to the responsibility of the Secretary [of State] for diplomatic security under section 103 of the Diplomatic Security Act (22 U.S.C. 4802; enacted as part of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399)), the Secretary, in consultation with the Secretary of Defense, shall conduct an annual review of the Marine Corps Security Guard Program, including the following:

“(1) An evaluation of whether the size and composition of the Marine Corps Security Guard Program is adequate to meet global diplomatic security requirements.

“(2) An assessment of whether the Marine Corps security guards are appropriately deployed among United States embassies, consulates, and other diplomatic facilities to respond to evolving security developments and potential threats to United States interests abroad.

“(3) An assessment of the mission objectives of the Marine Corps Security Guard Program and the procedural rules of engagement to protect diplomatic personnel under the Program.

“(b) REPORTING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 16, 2016] and annually thereafter for 3 years, the Secretary, in consultation with the Secretary of Defense, shall submit to the Committee on Foreign Affairs, the

Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate an unclassified report, with a classified annex as necessary, that addresses the requirements specified in subsection (a).”

CONGRESSIONAL NOTIFICATION AND BRIEFING REQUIREMENT ON ORDERED EVACUATIONS OF UNITED STATES EMBASSIES AND CONSULATES INVOLVING SUPPORT PROVIDED BY THE DEPARTMENT OF DEFENSE

Pub. L. 114-92, div. A, title X, § 1091, Nov. 25, 2015, 129 Stat. 1018, provided that:

“(a) NOTIFICATION REQUIREMENT.—The Secretary of Defense and the Secretary of State shall provide notification to the appropriate congressional committees as soon as practicable upon the initiation of an ordered evacuation of a United States embassy or consulate involving support provided by the Department of Defense.

“(b) BRIEFING REQUIREMENT.—The Secretary of Defense and the Secretary of State shall provide a briefing to the appropriate congressional committees not later than 15 days after the initiation of an ordered evacuation of a United States embassy or consulate involving support provided by the Department of Defense.

“(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

“(2) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.”

PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH INTELLIGENCE THREAT COUNTRIES

Pub. L. 100-204, title I, § 155, Dec. 22, 1987, 101 Stat. 1353, provided that:

“(a) SPECIAL SECURITY PROGRAM.—The Secretary of State shall develop and implement, within three months after the date of enactment of this Act [Dec. 22, 1987], a special personnel security program for personnel of the Department of State assigned to United States diplomatic and consular posts in high intelligence threat countries who are responsible for security at those posts and for any individuals performing guard functions at those posts. Such program shall include—

“(1) selection criteria and screening to ensure suitability for assignment to high intelligence threat countries;

“(2) counterintelligence awareness and related training;

“(3) security reporting and command arrangements designed to counter intelligence threats; and

“(4) length of duty criteria and policies regarding rest and recuperative absences.

“(b) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this subsection [Dec. 22, 1987], the Secretary of State shall report to the Congress on the special personnel security program required by subsection (a).

“(c) DEFINITION.—As used in subsection (a), the term ‘high intelligence threat country’ means—

“(1) a country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961 [22 U.S.C. 2370(f)]; and

“(2) any other country designated as a high intelligence threat country for purposes of this section by the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, or the Director of the Federal Bureau of Investigation.”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Cen-

tral Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.]

§ 4803. Designation of high risk, high threat posts

(a) Initial designation

Not later than 30 days after December 16, 2016, the Department of State shall submit to the appropriate congressional committees and the Committees on Appropriations of the Senate and the House of Representatives a report, in classified form, that contains a list of diplomatic and consular posts designated as high risk, high threat posts.

(b) Designations before opening or reopening posts

Before opening or reopening a diplomatic or consular post, the Secretary shall determine if such post should be designated as a high risk, high threat post.

(c) Designating existing posts

The Secretary shall regularly review existing diplomatic and consular posts to determine if any such post should be designated as a high risk, high threat post if conditions at such post or the surrounding security environment require such a designation.

(d) Definitions

In this section:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) High risk, high threat post

The term "high risk, high threat post" means a United States diplomatic or consular post or other United States mission abroad, as determined by the Secretary, that, among other factors—

(A) is located in a country—

(i) with high to critical levels of political violence and terrorism; and

(ii) the government of which lacks the ability or willingness to provide adequate security; and

(B) has mission physical security platforms that fall below the Department of State's established standards.

(Pub. L. 99-399, title I, §104, as added Pub. L. 114-323, title I, §101(a), Dec. 16, 2016, 130 Stat. 1907; amended Pub. L. 115-94, §2(a), Dec. 18, 2017, 131 Stat. 2038.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4803, Pub. L. 99-399, title I, §104(a), Aug. 27, 1986, 100 Stat. 856, established Bureau of Diplomatic Security in Department of State, prior to repeal by Pub. L. 103-236, title I, §162(g)(3), Apr. 30, 1994, 108 Stat. 407.

A prior section 104 of Pub. L. 99-399 enacted this section and amended former section 2652 of this title and section 5315 of Title 5, Government Organization and Employees, prior to repeal by Pub. L. 103-236, title I, §162(g)(3), Apr. 30, 1994, 108 Stat. 407.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-94 inserted "and the Committees on Appropriations of the Senate and the House of Representatives" after "appropriate congressional committees".

§ 4804. Briefings on embassy security

(a) Briefing

The Secretary shall provide monthly briefings to the appropriate congressional committees on—

(1) progress towards opening or reopening a high risk, high threat post, and the risk to national security of the continued closure or any suspension of operations and remaining barriers to doing so, including—

(A) the importance and appropriateness of the objectives of the proposed post to the national security of the United States, the risk to United States national security of the post's continued closure or suspension of operations, and the type and level of security threats such post could encounter;

(B) working plans to expedite the approval and funding for establishing and operating such post, implementing physical security measures, providing necessary security and management personnel, and the provision of necessary equipment;

(C) the type and level of security threats such post could encounter, and security "tripwires" that would determine specific action, including enhanced security measures or evacuation of such post, based on the improvement or deterioration of the local security environment; and

(D) in coordination with the Secretary of Defense, an evaluation of available United States military assets and operational plans to respond to such posts in extremis;

(2) personnel staffing and rotation cycles at high risk, high threat posts;

(3) the current security posture at posts of particular concern as determined by such committees; and

(4) the progress towards implementation of the provisions specified in title I of the Department of State Authorities Act, Fiscal Year 2017.

(b) Congressional notification

(1) In general

Except as provided in paragraph (2), not later than 30 days before opening or reopening a high risk, high threat post, the Secretary shall notify the appropriate congressional committees of the decision to open or reopen such post.

(2) Emergency circumstances

If the Secretary determines that the national security interests of the United States require the opening or reopening of a high risk, high threat post in fewer than 30 days, then as soon as possible, but not later than 48