

REFERENCES TO NEW NAME FOR BALLISTIC MISSILE  
DEFENSE ORGANIZATION

Pub. L. 107-314, div. A, title II, § 225(a), Dec. 2, 2002, 116 Stat. 2486, provided that: "Any reference to the Ballistic Missile Defense Organization in any provision of law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Missile Defense Agency."

COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM  
ELEMENT

Pub. L. 105-85, div. A, title II, § 233, Nov. 18, 1997, 111 Stat. 1663, as amended by Pub. L. 107-314, div. A, title II, § 225(b)(4)(A), Dec. 2, 2002, 116 Stat. 2486, provided that:

"(a) REQUIREMENT FOR NEW PROGRAM ELEMENT.—The Secretary of Defense shall establish a program element for the Missile Defense Agency, to be referred to as the 'Cooperative Ballistic Missile Defense Program', to support technical and analytical cooperative efforts between the United States and other nations that contribute to United States ballistic missile defense capabilities. Except as provided in subsection (b), all international cooperative ballistic missile defense programs of the Department of Defense shall be budgeted and administered through that program element.

"(b) AUTHORITY FOR EXCEPTIONS.—The Secretary of Defense may exclude from the program element established pursuant to subsection (a) any international cooperative ballistic missile defense program of the Department of Defense that after the date of the enactment of this Act [Nov. 18, 1997] is designated by the Secretary of Defense (pursuant to applicable Department of Defense acquisition regulations and policy) to be managed as a separate acquisition program.

"(c) RELATIONSHIP TO OTHER PROGRAM ELEMENTS.—The program element established pursuant to subsection (a) is in addition to the program elements for activities of the Missile Defense Agency required under section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 233; [former] 10 U.S.C. 221 note)."

**§ 223a. Ballistic missile defense programs: procurement**

(a) BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

(1) The production rate capabilities of the production facilities planned to be used for production of that element.

(2) The potential date of availability of that element for initial fielding.

(3) The estimated date on which the administration of the acquisition of that element is to be transferred from the Director of the Missile Defense Agency to the Secretary of a military department.

(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary of Defense shall include in the future-years defense program submitted to Congress each year under section 221 of this title an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.

(c) PERFORMANCE CRITERIA.—The Director of the Missile Defense Agency shall include in the performance criteria prescribed for planned development phases of the ballistic missile defense system and its elements a description of the intended effectiveness of each such phase against foreign adversary capabilities.

(d) TESTING PROGRESS.—The Director of Operational Test and Evaluation shall make available for review by the congressional defense committees the developmental and operational test plans established to assess the effectiveness of the ballistic missile defense system and its elements with respect to the performance criteria described in subsection (c).

(Added Pub. L. 108-136, div. A, title II, § 223(a)(1), Nov. 24, 2003, 117 Stat. 1420.)

IMPLEMENTATION OF REQUIREMENT FOR AVAILABILITY  
OF TEST PLANS

Pub. L. 108-136, div. A, title II, § 223(b), Nov. 24, 2003, 117 Stat. 1420, directed that subsec. (d) of this section was to be implemented not later than Mar. 1, 2004.

**§ 224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation**

(a) REQUIREMENT.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the integration of a ballistic missile defense element into the overall ballistic missile defense architecture shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation and, within that account, under the subaccount (or other budget activity level) for the Missile Defense Agency.

(b) TRANSFER CRITERIA.—(1) The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Missile Defense Agency to the Secretary of a military department. The criteria established for such a transfer shall, at a minimum, address the following:

(A) The technical maturity of the program.

(B) The availability of facilities for production.

(C) The commitment of the Secretary of the military department concerned to procurement funding for that program, as shown by funding through the future-years defense program and other defense planning documents.

(2) The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.

(c) NOTIFICATION OF TRANSFER.—Before responsibility for a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary's intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.

(d) CONFORMING BUDGET AND PLANNING TRANSFERS.—When a ballistic missile defense program is transferred from the Missile Defense Agency to the Secretary of a military department in accordance with this section, the Secretary of Defense shall ensure that all appropriate conforming changes are made to proposed or projected funding allocations in the future-years defense program under section 221 of this title and other Department of Defense program, budget, and planning documents.

(e) FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Defense shall ensure that, before a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly delineated.

(Added Pub. L. 105–85, div. A, title II, §232(a)(1), Nov. 18, 1997, 111 Stat. 1662; amended Pub. L. 107–107, div. A, title II, §231(a), (b)(1), Dec. 28, 2001, 115 Stat. 1035, 1036; Pub. L. 107–314, div. A, title II, §§222, 225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2485, 2486; Pub. L. 108–136, div. A, title II, §226, title X, §1043(b)(4), Nov. 24, 2003, 117 Stat. 1421, 1611.)

#### AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, §226(b), substituted “the integration of a ballistic missile defense element into the overall ballistic missile defense architecture” for “a Department of Defense missile defense program described in subsection (b)”.

Subsec. (e). Pub. L. 108–136, §226(a), substituted “before a” for “for each”, inserted “is” before “transferred”, and substituted “roles and responsibilities” for “responsibility” and “are clearly delineated” for “remains with the Director”.

Subsec. (f). Pub. L. 108–136, §1043(b)(4), struck out heading and text of subsec. (f). Text read as follows: “In this section, the term ‘congressional defense committees’ means the following:

“(1) The Committee on Armed Services and the Committee on Appropriations of the Senate.

“(2) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

2002—Subsecs. (a), (b)(1), (c), (d). Pub. L. 107–314, §225(b)(1)(A), substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization”.

Subsec. (e). Pub. L. 107–314 substituted “for each” for “before a”, “transferred” for “is transferred”, “Missile Defense Agency” for “Ballistic Missile Defense Organization”, and “responsibility for research, development, test, and evaluation related to system improvements for that program remains with the Director” for “roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly defined”.

2001—Pub. L. 107–107, §231(b)(1), substituted “research, development, test, and evaluation” for “procurement” in section catchline.

Subsec. (a). Pub. L. 107–107, §231(a)(1), substituted “research, development, test, and evaluation” for “procurement” in two places.

Subsecs. (b) to (f). Pub. L. 107–107, §231(a)(2), added subsecs. (b) to (f) and struck out former subsecs. (b) and (c) which related to covered programs and core theater ballistic missile defense program, respectively.

#### § 225. Acquisition accountability reports on the ballistic missile defense system

(a) BASELINES REQUIRED.—(1) In accordance with paragraph (2), the Director of the Missile

Defense Agency shall establish and maintain an acquisition baseline for—

(A) each program element of the ballistic missile defense system, as specified in section 223 of this title; and

(B) each designated major subprogram of such program elements.

(2) The Director shall establish an acquisition baseline required by paragraph (1) before the date on which the program element or major subprogram enters—

(A) engineering and manufacturing development (or its equivalent); and

(B) production and deployment.

(3) Except as provided by subsection (d), the Director may not adjust or revise an acquisition baseline established under this section.

(b) ELEMENTS OF BASELINES.—Each acquisition baseline required by subsection (a) for a program element or major subprogram shall include the following:

(1) A comprehensive schedule, including—

(A) research and development milestones;

(B) acquisition milestones, including design reviews and key decision points;

(C) key test events, including ground and flight tests and ballistic missile defense system tests;

(D) delivery and fielding schedules;

(E) quantities of assets planned for acquisition and delivery in total and by fiscal year; and

(F) planned contract award dates.

(2) A detailed technical description of—

(A) the capability to be developed, including hardware and software;

(B) system requirements, including performance requirements;

(C) how the proposed capability satisfies a capability identified by the commanders of the combatant commands on a prioritized capabilities list;

(D) key knowledge points that must be achieved to permit continuation of the program and to inform production and deployment decisions; and

(E) how the Director plans to improve the capability over time.

(3) A cost estimate, including—

(A) a life-cycle cost estimate that separately identifies the costs regarding research and development, procurement, military construction, operations and sustainment, and disposal;

(B) program acquisition unit costs for the program element;

(C) average procurement unit costs and program acquisition costs for the program element; and

(D) an identification of when the document regarding the program joint cost analysis requirements description is scheduled to be approved.

(4) A test baseline summarizing the comprehensive test program for the program element or major subprogram outlined in the integrated master test plan.

(c) ANNUAL REPORTS ON ACQUISITION BASELINES.—(1) Not later than February 15 of each