

(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

year, the Director shall submit to the congressional defense committees a report on the acquisition baselines required by subsection (a).

(2)(A) The first report under paragraph (1) shall set forth each acquisition baseline required by subsection (a) for a program element or major subprogram.

(B) Each subsequent report under paragraph (1) shall include—

(i) any new acquisition baselines required by subsection (a) for a program element or major subprogram; and

(ii) with respect to an acquisition baseline that was previously included in a report under paragraph (1), an identification of any changes or variances made to the elements described in subsection (b) for such acquisition baseline, as compared to—

(I) the initial acquisition baseline for such program element or major subprogram; and

(II) the acquisition baseline for such program element or major subprogram that was submitted in the report during the previous year.

(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

(d) EXCEPTION TO LIMITATION ON REVISION.—The Director may adjust or revise an acquisition baseline established under this section if the Director submits to the congressional defense committees notification of—

(1) a justification for such adjustment or revision;

(2) the specific adjustments or revisions made to the acquisition baseline, including to the elements described in subsection (b); and

(3) the effective date of the adjusted or revised acquisition baseline.

(Added Pub. L. 112–81, div. A, title II, §231(a)(1), Dec. 31, 2011, 125 Stat. 1337.)

[§ 226. Repealed. Pub. L. 112–81, div. A, title X, § 1061(3)(A), Dec. 31, 2011, 125 Stat. 1583]

Section, added Pub. L. 102–190, div. A, title X, §1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, §221; renumbered §226, Pub. L. 102–484, div. A, title X, §1002(a)(1), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103–160, div. A, title XI, §1104, Nov. 30, 1993, 107 Stat. 1749; Pub. L. 108–136, div. A, title X, §1031(a)(5), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 109–364, div. A, title X, §1007, Oct. 17, 2006, 120 Stat. 2373, related to scoring of outlays by the Director of the Office of Management and Budget and the Director of the Congressional Budget Office.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–189, §5(a), Nov. 29, 1989, 103 Stat. 1364, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102–190, §1002(b)(1).

[§ 227. Repealed. Pub. L. 104–106, div. A, title X, § 1061(f)(1), Feb. 10, 1996, 110 Stat. 443]

Section, added Pub. L. 103–160, div. A, title III, §374(a), Nov. 30, 1993, 107 Stat. 1636, directed Secretary of Defense to include recruiting costs in budget justification documents submitted to Congress each year in connection with submission of budget.

§ 228. Biannual reports on allocation of funds within operation and maintenance budget subactivities

(a) BIENNIAL REPORT.—The Secretary of Defense shall submit to the congressional defense committees a biannual report on the allocation of appropriations to O&M budget activities and to the subactivities of those budget activities. Each such report shall be submitted not later than 60 days after the end of the two fiscal-year quarters to which the report pertains.

(b) MATTERS TO BE INCLUDED.—Each such report shall set forth the following for each subactivity of the O&M budget activities:

(1) The amount of budget authority appropriated for that subactivity in the most recent regular Department of Defense Appropriations Act.

(2) The amount of budget authority actually made available for that subactivity, taking into consideration supplemental appropriations, rescissions, and other adjustments required by law or made pursuant to law.

(3) The amount programmed to be expended from such subactivity.

(c) IDENTIFICATION OF CERTAIN FLUCTUATIONS.—If, in the report under this section for the second two fiscal-year quarters of a fiscal year, an amount shown under subsection (b) for a subactivity is different by more than \$15,000,000 from the corresponding amount for that subactivity in the report for the first two fiscal-year quarters of that fiscal year, the Secretary shall include in the report notice of that difference.

(d) REPORT ON FLUCTUATIONS.—If a report under this section includes a notice under subsection (c), the Secretary shall include in the report with each such notice the following:

(1) The reasons for the reallocations of funds resulting in the inclusion of that notice in the report.

(2) Each budget subactivity involved in those reallocations.

(3) The effect of those reallocations on the operation and maintenance activities funded through the subactivity with respect to which the notice is included in the report.

(e) O&M BUDGET ACTIVITY DEFINED.—In this section, the term “O&M budget activity” means a budget activity within an operation and maintenance appropriation of the Department of Defense for a fiscal year.

(Added Pub. L. 105–85, div. A, title III, §321(a)(1), Nov. 18, 1997, 111 Stat. 1672; amended Pub. L. 107–314, div. A, title III, §361, Dec. 2, 2002, 116 Stat. 2519; Pub. L. 108–136, div. A, title X, §§1031(a)(6)(A), (B)(i), 1043(b)(5), Nov. 24, 2003, 117 Stat. 1596, 1611; Pub. L. 112–81, div. A, title X, §1064(4)(A), (B)(i), Dec. 31, 2011, 125 Stat. 1587.)

AMENDMENTS

2011—Pub. L. 112–81, §1064(4)(B)(i), amended section catchline generally, substituting “Biannual reports on allocation of funds within operation and maintenance budget subactivities” for “Quarterly reports on allocation of funds within operation and maintenance budget subactivities”.

Subsec. (a). Pub. L. 112–81, §1064(4)(A)(i), substituted “Biannual Report” for “Quarterly Report” in heading