

tion Act for Fiscal Year 1993, apparently is based on an order adopted by the Senate on Oct. 3, 1992 [Cong. Rec., vol. 138, p. 30919] providing that when the conference report on the National Defense Authorization Act for Fiscal Year 1993 was received by the Senate from the House of Representatives it would be deemed to have been agreed to. On Oct. 5, 1992, the Senate received the conference report from the House, and it was considered adopted pursuant to that order [Cong. Rec., vol. 138, p. 31565].

AMENDMENTS

2008—Subsecs. (j), (k). Pub. L. 110-417, §1407(1), redesignated subsecs. (k) and (l) as (j) and (k), respectively, and struck out heading and text of former subsec. (j). Text read as follows: “Upon a determination by the Secretary of Defense that such action serves the national defense interest and after consultation with the congressional defense committees, the Secretary may use funds available for obligation or expenditure for a purpose specified under subsection (c)(1)(A), (B), (C), and (D) for any purpose under subsection (c)(1).”

Subsec. (k)(2)(B) to (I). Pub. L. 110-417, §1407(2), added subpar. (B) and struck out former subpars. (B) to (I) which read as follows:

- “(B) A maritime repositioning ship.
- “(C) An afloat repositioning ship.
- “(D) An aviation maintenance support ship.
- “(E) A hospital ship.
- “(F) A strategic sealift ship.
- “(G) A combat logistics force ship.
- “(H) A maritime repositioned ship.
- “(I) Any other auxiliary support vessel.”

Subsec. (l). Pub. L. 110-417, §1407(1), redesignated subsec. (l) as (k).

2006—Subsec. (d)(2). Pub. L. 109-304 substituted “sections 57101-57104 and chapter 573 of title 46” for “sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund”.

Subsec. (f)(1). Pub. L. 109-163 substituted “A vessel built in a foreign ship yard may not be” for “Not more than a total of five vessels built in foreign ship yards may be” and inserted “, unless specifically authorized by law” before period at end.

2003—Subsec. (l)(4), (5). Pub. L. 108-136 redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “The term ‘congressional defense committees’ means—

- “(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and
- “(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

2001—Subsec. (d)(1). Pub. L. 107-107 struck out “for fiscal years after fiscal year 1993” after “Department of Defense” in introductory provisions.

2000—Subsec. (k)(1). Pub. L. 106-398, §1 [[div. A], title X, §1011(1)], inserted at end “As consideration for a contract with the head of an agency under this subsection, the company entering into the contract shall agree with the Secretary of Defense to make any vessel covered by the contract available to the Secretary, fully crewed and ready for sea, at any time at any port determined by the Secretary, and for whatever duration the Secretary determines necessary.”

Subsec. (k)(2)(E). Pub. L. 106-398, §1 [[div. A], title X, §1011(2)], added subpar. (E).

Subsec. (k)(6). Pub. L. 106-398, §1 [[div. A], title X, §1011(3)], added par. (6).

1999—Subsec. (k). Pub. L. 106-65, §1015(a)(2), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (k)(2). Pub. L. 106-65, §1014(b), substituted “that is any of the following:” for “that is—” in introductory provisions, substituted “A” for “a” and a period for the semicolon in subpars. (A) and (B), “An” for “an” and a period for the semicolon in subpar. (C), “An” for “an” and a period for “; or” in subpar. (D), and “A” for “a” in subpar. (E), and added subpars. (F) to (I).

Subsec. (l). Pub. L. 106-65, §1015(a)(1), redesignated subsec. (k) as (l).

Subsec. (l)(4)(B). Pub. L. 106-65, §1067(1), substituted “Committee on Armed Services” for “Committee on National Security”.

Subsec. (l)(5). Pub. L. 106-65, §1015(b), added par. (5).
1996—Subsec. (c)(1). Pub. L. 104-106, §1014(a)(1)(A), substituted “only for the following purposes:” for “only for—”.

Subsec. (c)(1)(A). Pub. L. 104-106, §1014(a)(1)(B), (C), substituted “Construction” for “construction” and “vessels.” for “vessels;”.

Subsec. (c)(1)(B). Pub. L. 104-106, §1014(a)(1)(B), (C), substituted “Operation” for “operation” and “purposes.” for “purposes;”.

Subsec. (c)(1)(C). Pub. L. 104-106, §1014(a)(1)(B), (D), substituted “Installation” for “installation” and “States.” for “States; and”.

Subsec. (c)(1)(D). Pub. L. 104-106, §1014(a)(1)(B), substituted “Research” for “research”.

Subsec. (c)(1)(E). Pub. L. 104-106, §1014(a)(1)(E), added subpar. (E).

Subsec. (i). Pub. L. 104-106, §1014(a)(2), inserted “(other than subsection (c)(1)(E))” after “Nothing in this section”.

Subsec. (j). Pub. L. 104-106, §1502(a)(15)(A), substituted “the congressional defense committees” for “the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives”.

Subsec. (k)(4). Pub. L. 104-106, §1502(a)(15)(B), added par. (4).

1992—Subsec. (c)(2). Pub. L. 102-396 substituted “in amounts authorized by law” for “for programs, projects, and activities and only in amounts authorized in, or otherwise permitted under, an Act other than an appropriations Act”. See Codification note above.

[§ 2219. Renumbered § 2491c]

§ 2220. Performance based management: acquisition programs

(a) ESTABLISHMENT OF GOALS.—The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense and for each phase of the acquisition cycle of such programs.

(b) EVALUATION OF COST GOALS.—The Under Secretary of Defense (Comptroller) shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

(Added Pub. L. 103-355, title V, §5001(a)(1), Oct. 13, 1994, 108 Stat. 3349; amended Pub. L. 104-106, div. A, title XV, §1503(a)(20), div. D, title XLIII, §4321(b)(1), Feb. 10, 1996, 110 Stat. 512, 671; Pub. L. 105-85, div. A, title VIII, §841(a), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 107-314, div. A, title X, §1041(a)(8), Dec. 2, 2002, 116 Stat. 2645.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-314, §1041(a)(8)(B), (C), struck out par. (1) designation and redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 107-314, §1041(a)(8)(A), (C), redesignated subsec. (a)(2) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of whether major acquisition programs of the Department of Defense are achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a) and whether the average period for converting emerging technology into operational capability has decreased by 50 percent or more from the average period required for such conversion as of October 13, 1994. The Secretary shall use data from existing management systems in making the assessment.”

Subsec. (c). Pub. L. 107-314, §1041(a)(8)(A), struck out heading and text of subsec. (c). Text read as follows: “Whenever the Secretary of Defense, in the assessment required by subsection (b), determines that major defense acquisition programs of the Department of Defense are not achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a), the Secretary shall ensure that there is a timely review of major defense acquisition programs and other programs as appropriate. In conducting the review, the Secretary shall—

“(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

“(2) identify suitable actions to be taken, including termination, with respect to such programs.”

1997—Subsec. (b). Pub. L. 105-85 substituted “whether major acquisition programs” for “whether major and nonmajor acquisition programs”.

1996—Subsec. (a)(2). Pub. L. 104-106, §1503(a)(20), substituted “Under Secretary of Defense (Comptroller)” for “Comptroller of the Department of Defense”.

Subsec. (b). Pub. L. 104-106, §4321(b)(1), substituted “October 13, 1994” for “the date of the enactment of the Federal Acquisition Streamlining Act of 1994”.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(b)(1) of Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 2302 of this title.

PILOT PROGRAMS FOR TESTING PROGRAM MANAGER PERFORMANCE OF PRODUCT SUPPORT OVERSIGHT RESPONSIBILITIES FOR LIFE CYCLE OF ACQUISITION PROGRAMS

Pub. L. 105-261, div. A, title VIII, §816, Oct. 17, 1998, 112 Stat. 2088, provided that:

“(a) DESIGNATION OF PILOT PROGRAMS.—The Secretary of Defense, acting through the Secretaries of the military departments, shall designate 10 acquisition programs of the military departments as pilot programs on program manager responsibility for product support.

“(b) RESPONSIBILITIES OF PROGRAM MANAGERS.—The program manager for each acquisition program designated as a pilot program under this section shall have the responsibility for ensuring that the product support functions for the program are properly carried out over the entire life cycle of the program.

“(c) REPORT.—Not later than February 1, 1999, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report on the pilot programs. The report shall contain the following:

“(1) A description of the acquisition programs designated as pilot programs under subsection (a).

“(2) For each such acquisition program, the specific management actions taken to ensure that the program manager has the responsibility for oversight of the performance of the product support functions.

“(3) Any proposed change to law, policy, regulation, or organization that the Secretary considers desirable, and determines feasible to implement, for ensuring that the program managers are fully responsible under the pilot programs for the performance of all such responsibilities.”

ENHANCED SYSTEM OF PERFORMANCE INCENTIVES

Pub. L. 103-355, title V, §5001(b), Oct. 13, 1994, 108 Stat. 3350, provided that: “Within one year after the date of the enactment of this Act [Oct. 13, 1994], the Secretary of Defense shall review the incentives and personnel actions available to the Secretary of Defense for encouraging excellence in the management of defense acquisition programs and provide an enhanced system of incentives to facilitate the achievement of goals ap-

proved or defined pursuant to section 2220(a) of title 10, United States Code. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

“(1) relate pay to performance (including the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, as added by subsection (a)); and

“(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, United States Code, as added by subsection (a).”

RECOMMENDED LEGISLATION

Pub. L. 103-355, title V, §5001(c), Oct. 13, 1994, 108 Stat. 3350, directed the Secretary of Defense, not later than one year after Oct. 13, 1994, to submit to Congress any recommended legislation that the Secretary considered necessary to carry out this section and otherwise to facilitate and enhance management of Department of Defense acquisition programs on the basis of performance.

§ 2221. Repealed. Pub. L. 105-261, div. A, title IX, § 906(f)(1), Oct. 17, 1998, 112 Stat. 2096]

Section, added Pub. L. 104-106, div. A, title IX, §914(a)(1), Feb. 10, 1996, 110 Stat. 412; amended Pub. L. 104-201, div. A, title X, §1008(a), Sept. 23, 1996, 110 Stat. 2633; Pub. L. 105-85, div. A, title X, §1006(a), Nov. 18, 1997, 111 Stat. 1869; Pub. L. 105-261, div. A, title X, §1069(b)(2), Oct. 17, 1998, 112 Stat. 2136, related to Fisher House trust funds. See section 2493 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 17, 1998, see section 906(f)(3) of Pub. L. 105-261, set out as an Effective Date of 1998 Amendment note under section 1321 of Title 31, Money and Finance.

§ 2222. Defense business systems: architecture, accountability, and modernization

(a) CONDITIONS FOR OBLIGATION OF FUNDS FOR COVERED DEFENSE BUSINESS SYSTEM PROGRAMS.—Funds available to the Department of Defense, whether appropriated or non-appropriated, may not be obligated for a defense business system program that will have a total cost in excess of \$1,000,000 over the period of the current future-years defense program submitted to Congress under section 221 of this title unless—

(1) the appropriate pre-certification authority for the covered defense business system program has determined that—

(A) the defense business system program is in compliance with the enterprise architecture developed under subsection (c) and appropriate business process re-engineering efforts have been undertaken to ensure that—

(i) the business process supported by the defense business system program is or will be as streamlined and efficient as practicable; and

(ii) the need to tailor commercial-off-the-shelf systems to meet unique requirements or incorporate unique requirements or incorporate unique interfaces has been eliminated or reduced to the maximum extent practicable;